

## Extra Ordinary Part - VI / 2008

Extra No.	Date	Department
Extra No.1	05-02-2008	Legislative & Parliamentary Affairs Department
Extra No.2	27-02-2008	Legislative & Parliamentary Affairs Department
Extra No.3	03-03-2008	Legislative & Parliamentary Affairs Department
Extra No.4	31-03-2008	Legislative & Parliamentary Affairs Department
Extra No.5	31-03-2008	Legislative & Parliamentary Affairs Department
Extra No.6	31-03-2008	Legislative & Parliamentary Affairs Department
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Extra No.20	10-09-2008	Legislative & Parliamentary Affairs Department
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# The Gujarat Government Gazette

**EXTRAORDINARY**  
**PUBLISHED BY AUTHORITY**

Vol. XLIX]

TUESDAY, FEBRUARY 5, 2008/MAGHA 16, 1929

Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

## PART VI

Acts of Parliament and Ordinances promulgated by the President

**GOVERNMENT OF GUJARAT**  
**LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT**  
Sachivalaya, Gandhinagar, 31<sup>st</sup> January, 2008.

No. RPB/1-2008/Ord.-01-08/E:- The following Ordinance promulgated by the President and published in the Gazette of India, Extraordinary, Part II, Section 1, dated the 14<sup>th</sup> January, 2008 is republished for general information :-

**GOVERNMENT OF INDIA**

**MINISTRY OF LAW AND JUSTICE**  
(Legislative Department)

*New Delhi, the 14<sup>th</sup> January, 2008/Pausa 24, 1929 (Saka)*

**THE DELIMITATION (AMENDMENT) ORDINANCE, 2008**  
**No. 1 of 2008.**

Promulgated by the President in the Fifty-eighth Year of the Republic of India.  
An Ordinance further to amend the Delimitation Act, 2002.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for her to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:-

1. (1) This Ordinance may be called the Delimitation (Amendment) Ordinance, 2008.

- (2) It shall come into force at once.

Short title and  
commencement.



33 of 2002.

2. In section 10 of the Delimitation Act, 2002 (hereinafter referred to as the principal Act),- Amendment of section 10.

(i) in sub-section (4), the following proviso shall be inserted, namely :-

"Provided that nothing in this sub-section shall apply to the delimitation orders published in relation to the State of Jharkhand,";

(ii) in sub-section (6), for words "within two years of the constitution of the Commission", the words "within a period not later than 31<sup>st</sup> day of July, 2008" shall be substituted.

Insertion of new sections 10A and 10B.

Deferment of delimitation in certain cases.

3. After section 10 of the principal Act, the following sections shall be inserted. Namely :-

"10A (1) Notwithstanding anything contained in sections 4, 8 and 9, if the President is satisfied that a situation has arisen whereby the unity and integrity of India is threatened or there is a serious threat to the peace and public order, he may, by order, defer the delimitation exercise in a State.

(2) Every order made under this section shall be laid before each House of Parliament.

10B. Notwithstanding anything contained in sub-section (2) of section 10, the final orders relating to readjustment of number of seat and delimitation of constituencies in respect of the State of Jharkhand published under the said section vide order O.N. 63 (E), dated 30<sup>th</sup> April, 2007 and O.N. 110 (E), dated 17<sup>th</sup> August, 2007 shall have no legal effect and the delimitation of the constituencies as it stood before the publication of the said order shall continue to be in force until the year 2026 in relation to every election to the House of the People or to the Legislative Assembly, as the case may be, held after the commencement of the Delimitation (Amendment) Ordinance, 2008".

Delimitation Commission's order with respect to the State of Jharkhand not to have any legal effect.

Sd/-

**PRATIBHA DEVISINGH PATIL**

President

**K. D. SINGH,**

Secretary to the Government of India

By order and in the name of the Governor of Gujarat,

**H. D. VYAS,**

Secretary to Government



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# The Gujarat Government Gazette

## EXTRAORDINARY

### PUBLISHED BY AUTHORITY

Vol. XLIX] WEDNESDAY, FEBRUARY 27, 2008/PHALGUNA 8, 1929

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#### PART - VI

Acts of Parliament and Ordinances promulgated by the President.

#### GOVERNMENT OF GUJARAT

#### LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 27<sup>th</sup> February, 2008.

No. RPB-2-2008-Ord.-02-08-E. :-The Following Ordinance promulgated by the President and published in the gazette of India Extraordinary, Part II, Section 1, dated the 31<sup>st</sup> January, 2008 is republished for general information :-

#### GOVERNMENT OF INDIA

#### MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 31<sup>st</sup> January, 2008 /Magha 11, 1929 (Saka)

#### THE RAILWAYS (AMENDMENT) ORDINANCE, 2008

#### NO. 2 OF 2008

Promulgated by the President in the Fifty-ninth Year of the Republic of India.

An Ordinance further to amend the Railways Act, 1989.

WHEREAS Parliament is not in session and the President is satisfied that the circumstances exist which render it necessary for her to take immediate action.

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the constitution, the President is pleased to promulgate the following Ordinance :-

1. (1) This Ordinance may be called the Railways (Amendment) Ordinance, 2008.
- (2) It shall come into force at once.
2. In section 2 of the Railways Act, 1989 (Hereinafter referred to as the principal Act)-
  - (a) after clause (7), the following clause shall be inserted, namely :-

Short title  
and comm-  
encement.

Amend-  
ment of  
section 2.

'(7A) "competent authority" means any person authorised by the Central Government, by notification, to perform the functions of the competent authority for such area as may be specified in the notification';

(b) after clause (29), the following clause shall be inserted, namely :-

'(29A) "person interested" includes,-

(i) all persons claiming an interest in compensation to be made on account of the acquisition of land under this Act;

(ii) tribals and other traditional forest dwellers, who have lost any traditional rights recognized under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006;

2 of 2007.

(iii) a person interested in an easement affecting the land; and

(iv) persons having tenancy rights under the relevant State laws';

(c) after clause (37), the following clause shall be inserted, namely :-

'(37A) "special railway project" means a project, notified as such by the Central Government from time to time, for providing national infrastructure for a public purpose in a specified time-frame, covering one or more State or the Union territories';

Insertion of  
new chapter  
IVA.

3. After Chapter IV of the principal Act, the following Chapter shall be inserted, namely :-

#### 'CHAPTER IVA

#### LAND ACQUISITION FOR A SPECIAL RAILWAY PROJECT

Power to  
acquire  
land, etc.

20A. (1) Where the Central Government is satisfied that for a public purpose any land is required for execution of a special railway project, it may, by notification, declare its intention to acquire such land.

(2) Every notification under sub-section (1), shall give a brief description of the land and of the special railway project for which the land is intended to be acquired.

(3) The State Government or the Union territory, as the case may be, shall for the purposes of this section, provide the details of the land records to the competent authority, whenever required.

(4) The competent authority shall cause the substance of the notification to be published in two local newspapers, one of which shall be in a vernacular language.

Power to  
enter for  
survey, etc.

20B. On the issue of a notification under sub-section (1) of section 20A, it shall be lawful for any person, authorised by the competent authority in this behalf, to—

(a) make any inspection, survey, measurement, valuation or enquiry;

(b) take levels;

(c) dig or bore into sub-soil;

(d) set out boundaries and intended lines of work;

(e) mark such levels, boundaries and lines placing marks and cutting trenches; or

(f) do such other acts or things as may be considered necessary by the competent authority.

Evaluation  
of damages  
during  
survey,  
measure  
ment, etc.

20C. The damages caused while carrying out works on land such as survey, digging or boring sub-soil, marking boundaries or cutting trenches or clearing away any standing crop, fence or forest or doing such other acts or things which may cause damages while acting under section 20B particularly relating to land which is excluded from acquisition proceeding, shall



be evaluated and compensation shall be paid to the persons having interest in that land, within six months from the completion of the said works.

**20D.** (1) Any person interested in the land may, within a period of thirty days from the date of publication of the notification under sub-section (1) of section 20A, object to the acquisition of land for the purpose mentioned in that sub-section.

Hearing of objections, etc.

(2) Every objection under sub-section (1), shall be made to the competent authority in writing, and shall set out the grounds thereof and the competent authority shall give the objector an opportunity of being heard, either in person or by a legal practitioner, and may, after hearing all such objections and after making such further enquiry, if any, as the competent authority thinks necessary, by order, either allow or disallow the objections.

*Explanation.*— For the purposes of this sub-section, "legal practitioner" has the same meaning as in clause (i) of sub-section (1) of section 2 of the Advocates Act, 1961.

25 of  
1961

(3) Any order made by the competent authority under sub section (2) shall be final.

**20E.** (1) Where no objection under sub-section (1) of section 20D has been made to the competent authority within the period specified therein or where the competent authority has disallowed the objections under sub-section (2) of that section, the competent authority shall, as soon as may be, submit a report accordingly to the Central Government and on receipt of such report, the Central Government shall declare, by notification, that the land should be acquired for the purpose mentioned in sub-section (1) of section 20A.

Declaration of acquisition.

(2) On the publication of the declaration under sub-section (1), the land shall vest absolutely in the Central Government free from all encumbrances.

(3) Where in respect of any land, a notification has been published under sub-section (1) of section 20A for its acquisition, but no declaration under sub-section (1) of this section has been published within a period of one year from the date of publication of that notification, the said notification shall cease to have any effect:

Provided that in computing the said period of one year, the period during which any action or proceedings to be taken in pursuance of the notification issued under sub-section (1) of section 20A is stayed by an order of a court shall be excluded.

(4) A declaration made by the Central Government under subsection (1) shall not be called in question in any court or by any other authority.

**20F.** (1) Where any land is acquired under this Act, there shall be paid an amount which shall be determined by an order of the competent authority.

Determination of amount payable as compensation.

(2) The competent authority shall make an award under this section within a period of one year from the date of the publication of the declaration and if no award is made within that period, the entire proceedings for the acquisition of the land shall lapse:

Provided that the competent authority may, after the expiry of the period of limitation, if he is satisfied that the delay has been caused due to unavoidable circumstances, and for the reasons to be recorded in writing, he may make the award within an extended period of six months:

Provided further that where an award is made within the extended period, the entitled person shall, in the interest of justice, be paid an additional compensation for the delay in making of the award, every month for the period so extended, at the rate of not less than five per cent. of the value of the award, for each month of such delay.

(3) Where the right of user or any right in the nature of an easement on, any land is acquired under this Act, there shall be paid an amount to the owner and any other person whose right of enjoyment in that land has been affected in any manner whatsoever by reason of such acquisition, an amount calculated at ten per cent, of the amount determined under sub-section (1), for that land.

(4) Before proceeding to determine the amount under subsection (1) or sub-section (3), as the case may be, the competent authority shall give a public notice published in two local newspapers, one of which shall be in a vernacular language inviting claims from all persons interested in the land to be acquired.

(5) Such notice shall state the particulars of the land and shall require all persons interested in such land to appear in person or by an agent or by a legal practitioner referred to in sub-section (2) of section 20D, before the competent authority, at a time and place and to state the nature of their respective interest in such land.

(6) If the amount determined by the competent authority under sub-section (1) or as the case may be sub-section (3) is not acceptable to either of the parties, the amount shall, on an application by either of the parties, be determined by the arbitrator to be appointed by the Central Government in such manner as may be prescribed.

(7) Subject to the provisions of this Act, the provisions of the Arbitration and Conciliation Act, 1996 shall apply to every arbitration under this Act. 26 of 1996.

(8) The competent authority or the arbitrator while determining the amount of compensation under sub-section (1) or sub-section (6), as the case may be, shall take into consideration—

(a) the market value of the land on the date of publication of the notification under section 20A;

(b) the damage, if any sustained by the person interested at the time of taking possession of the land, by reason of the severing of such land from other land;

(c) the damage, if any, sustained by the person interested at the time of taking possession of the land, by reason of the acquisition injuriously affecting his other immovable property in any manner, or his earnings;

(d) if, in consequences of the acquisition of the land, the person interested is compelled to change his residence or place of business, the reasonable expenses, if any, incidental to such change.

(9) In addition to the market-value of the land as above provided, the competent authority or the arbitrator, as the case may be, shall in every case award a sum of sixty per centum on such market value, in consideration of the compulsory nature of the acquisition.

20G. (1) The competent authority shall adopt the following criterion for criteria in assessing and determining the market value of the land,—

Criterion  
for  
determina  
tion of  
market  
value of  
land.

(i) the minimum land value, if any, specified in the Indian Stamp Act, 1899 2 of 1899.  
for the registration of sale deeds in the area, where the land is situated; or

(ii) the average of the sale price for similar type of land, situated in the village or vicinity, ascertained from not less than fifty per cent, of the sale deeds registered during the preceding three years, where higher price has been paid;

whichever is higher.



(2) Where the provisions of sub section (1) are not applicable for the reason that :

(i) the land is situated in such area where the transactions in land are restricted by or under any other law for the time being in force in that area; or

(ii) the registered sale deeds for similar land as mentioned in clause (i) of sub-section (1) are not available for the preceding three years; or

(iii) the minimum land value has not been specified under the Indian Stamp Act, 1899 by the appropriate authority,

the concerned State Government shall specify the floor price per unit area of the said land based on the average higher prices paid for similar type of land situated in the adjoining areas or vicinity, ascertained from not less than fifty per cent, of the sale deeds registered during the preceding three years where higher price has been paid, and the competent authority may calculate the value of the land accordingly.

(3) The competent authority shall, before assessing and determining the market value of the land being acquired under this Act,—

(a) ascertain the intended land use category of such land; and

(b) take into account the value of the land of the intended category in the adjoining areas or vicinity,

for the purpose of determination of the market value of the land being acquired.

(4) In determining the market value of the building and other immovable property or assets attached to the land or building which are to be acquired, the competent authority may use the services of a competent engineer or any other specialist in the relevant field, as may be considered necessary by the competent authority.

(5) The competent authority may, for the purpose of determining the value of trees and plants, use the services of experienced persons in the field of agriculture, forestry, horticulture, sericulture, or any other field, as may be considered necessary by him.

(6) For the purpose of assessing the value of the standing crops damaged during the process of land acquisition proceedings, the competent authority may utilise the services of experienced persons in the field of agriculture as he considers necessary.

**20H.** (1) The amount determined under section 20F shall be deposited by the Central Government, in such manner as may be prescribed by that Government, with the competent authority before taking possession of the land.

**Deposit and  
payment of  
amount**

(2) As soon as may be after the amount has been deposited under sub-section (1), the competent authority shall on behalf of the Central Government pay the amount to the person or persons entitled thereto.

(3) Where several persons claim to be interested in the amount deposited under sub section (1), the competent authority shall determine the persons who in its opinion are entitled to receive the amount payable to each of them.

(4) If any dispute arises as to the apportionment of the amount or any part thereof or to any person to whom the same or any part thereof is payable, the competent authority shall refer the dispute to the decision of the principal civil court of original jurisdiction within the limits of whose jurisdiction the land is situated.

(5) Where the amount determined under section 20F by the arbitrator is in excess of the amount determined by the competent authority, the arbitrator may award interest at nine per cent, per annum on such excess amount from the date of taking possession under section 20-1 till the date of actual deposit thereof.

(6) Where the amount determined by the arbitrator is in excess of the amount determined by the competent authority, the excess amount together with interest, if any, awarded under sub-section (5) shall be deposited by the Central Government, in such manner as may be prescribed by that Government, with the competent authority and the provisions of sub-sections (2) to (4) shall apply to such deposit.

Power to  
take  
Possession.

**20-I** (1) Where any land has vested in the Central Government under sub-section (2) of section 20E, and the amount determined by the competent authority under section 20F with respect to such land has been deposited under sub-section (1) of section 20H with the competent authority by the Central Government, the competent authority may, by notice in writing, direct the owner as well as any other person who may be in possession of such land to surrender or deliver possession thereof to the competent authority, or any person duly authorised by it in this behalf within a period of sixty days of the service of the notice.

(2) If any person refuses or fails to comply with any direction made under sub-section (1), the competent authority shall apply—

(a) in case of any land situated in any area falling within the metropolitan area, to the Commissioner of Police;

(b) in case of any land situated in any area other than the area referred to in clause (a), to the Collector of a district,

and such Commissioner or Collector, as the case may be, shall enforce the surrender of the land, to the competent authority or to the person duly authorised by it.

Right to enter  
into land  
where land  
has vested in  
Central  
Government

**20J.** Where the land has vested in the Central Government under section 20E, it shall be lawful for any person authorised by the Central Government in this behalf, to enter and do other act necessary upon the land for carrying out the building, maintenance, management or operation of the special railway project or part thereof or any other work connected therewith.

Competent  
authority to  
have certain  
powers of  
civil court.

**20K.** The competent authority shall have, for the purposes of this Act, all the powers of a civil court while trying a suit under the Code of Civil Procedure, 1908 in respect of the following matters, namely :—

5 of  
1908

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of any document;

(c) reception of evidence on affidavits;

(d) requisitioning any public record from any court or office;

(e) issuing commission for examination of witnesses.

Utilisation of  
land for the  
purpose it is  
acquired.

**20L.** (1) The land acquired under this Act shall not be transferred to any other purpose except for a public purpose, and after obtaining the prior approval of the Central Government.

(2) When any land or part thereof, acquired under this Act remains unutilized for a period of five years from the date of taking over the possession, the same shall return to the Central Government by reversion.



20M. Whenever any land acquired under this Act is transferred to any person for a consideration, eighty per cent, of the difference in the acquisition cost and the consideration received, which in no case shall be less than the acquisition cost, shall be shared amongst the persons from whom the lands were acquired or their heirs, in proportion to the value at which the lands were acquired, and for the purpose, a separate fund may be maintained which shall be administered by the competent authority in such manner as may be prescribed by the Central Government.

Sharing with landowners the difference in price of a land when transferred for a higher consideration

20N. Nothing in the Land Acquisition Act, 1894 shall apply to an acquisition under this Act.

Land Acquisition Act I of 1894 not to apply.

20O. The provisions of the National Rehabilitation and Resettlement Policy, 2007 for project affected families, notified by the Government of India in the Ministry of Rural Development vide number F.26011/4/2007-LRD, dated the 31<sup>st</sup> October, 2007, shall apply in respect of acquisition of land by the Central Government under this Act.

Application of the National Rehabilitation and resettlement Policy, 2007 to persons affected due to land acquisition.

20P. (1) The Central Government may, by notification, make rules to carry out the purposes of this Chapter.

Power to make rules in respect of matters in this Chapter.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely : —

- (a) the manner of appointment of arbitrator under subsection (6) of section 20F;
- (b) the manner in which the amount shall be deposited with the competent authority under sub sections (1) and (6) of section 20H;
- (c) the manner of maintenance and administration of separate fund for the purposes of section 20M. :

Sd/-

**PRATIBHA DEVISINGH PATIL,**  
President.

**K. D. SINGH,**  
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

**H. D. VYAS,**  
Secretary to Government.



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MONDAY, MARCH 3, 2008/PHALGUNA 13, 1929

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## PART VI

Acts of Parliament and Ordinances Promulgated by the President.

### GOVERNMENT OF GUJARAT

#### LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 3<sup>rd</sup> March, 2008.

No. RPB/3-2008/Ord.-03-08/E:-The following Ordinance promulgated by the President and published in the Gazette of India, Extraordinary, Part II, Section 1, dated the 31<sup>st</sup> January, 2008 is republished for general General information:-

### GOVERNMENT OF INDIA

#### MINISTRY OF LAW AND JUSTICE

#### (Legislative Department)

New Delhi, 31<sup>st</sup> January, 2008/Magha 11, 1929 (Saka)

#### THE FORWARD CONTRACTS (REGULATION) AMENDMENT ORDINANCE, 2008

No. 3 OF 2008

Promulgated by the President in the Fifty-ninth Year of the Republic of India.

An Ordinance further to amend the Forward Contracts (Regulation) Act, 1952 and the Securities and Exchange Board of India Act, 1992.

WHEREAS a Bill further to amend the Forward Contracts (Regulation) Act, 1952 and the Securities and Exchange Board of India Act, 1992 has been introduced in Parliament but has not yet been passed;

AND WHEREAS Parliament is not in session and the President is satisfied that the circumstances exist which render it necessary for her to take immediate action to give effect to the provisions of the Bill;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

#### CHAPTER I

#### PRELIMINARY

1. (1) This Ordinance may be called the Forward Contracts (Regulation) Amendment Ordinance, 2008.

Short title and commencement.

(2) It shall come into force at once.

## CHAPTER II

## AMENDMENTS TO THE FORWARD CONTRACTS (REGULATION) ACT, 1952

Amendment of  
long title.

2. In the Forward Contracts (Regulation) Act, 1952 (hereafter in this Chapter referred to as the principal Act), in the long title, for the words "the prohibition of options in goods", the words "and to promote the development of, and to regulate, the commodity derivatives market" shall be substituted.

74 of 1952

Amendment of  
section 2.

3. In section 2 of the principal Act,—

(i) for clause (a), the following clauses shall be substituted, namely:—

'(a) "Appellate Tribunal" means the Securities Appellate Tribunal established under sub-section (1) of section 15K of the Securities and Exchange Board of India Act, 1992;

15 of 1992

(aa) "association" means any body of individuals, whether incorporated or not, constituted for the purposes of regulating and controlling the business of the sale or purchase of any goods and commodity derivative;

(ab) "Chairman" means the Chairman of the Commission referred to in clause (a) of sub-section (1) of section 3A;';

(ii) after clause (b), the following clauses shall be inserted, namely:—

'(ba) "commodity derivative" means—

(i) a contract for delivery of goods, which is not a ready delivery contract; or

(ii) a contract for differences which derives its value from prices or indices of prices of such underlying goods or activities, services, rights, interests and events, as may be notified in consultation with the Commission by the Central Government, but does not include securities;

(bb) "corporatisation" means the succession of a recognised association, being a body of individuals or a society registered under the Societies Registration Act, 1860, by another association, being a company incorporated for the purpose of assisting, regulating or controlling the business of buying, selling or dealing in goods or commodity derivatives carried on by such individuals or society;

21 of 1860.

(bc) "demutualization" means the segregation of ownership and management from the trading rights of the members of a recognised association in accordance with a scheme approved by the Commission;';

(iii) in clause (c), after the words "delivery contract", the words "and includes contract for commodity derivative" shall be inserted;

(iv) after clause (c), the following clause shall be inserted, namely:—

'(ca) "Fund" means the Forward Markets Commission General Fund constituted under sub-section (1) of section 4E;';

(v) after clause (e), the following clauses shall be inserted, namely:—

'(ea) "intermediary" means a member of the association, and includes a collateral manager, a clearing house, or such other person who is associated with the commodity derivatives market and is specified as such by the Central Government for the purposes of this Act;

(eb) "member" means a whole-time or part-time member of the Commission and includes the Chairman;";

(vi) after clause (f), the following clauses shall be inserted, namely:—

(fa) "notification" means a notification published in the Official Gazette and the expression "notify" shall be construed accordingly;

(fb) "option in commodity derivative" means an agreement, by whatever name called, for trading in a commodity derivative and includes a teji, a mandi, a teji-mandi, a gali, a put, a call or a put and call in commodity derivative;";

(vii) in clause (i),—

(A) for the words "eleven days", the words "thirty days" shall be substituted;

(B) in the Explanation, in clause (i), after the word and figures "Act, 1970", the words; figures and brackets "or under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980" shall be inserted;

(viii) in clause (j), for the words and figure "the Central Government under section 6 in respect of goods or classes of goods", the words and figure "the Commission under section 6 in respect of forward contract or classes of forward contracts" shall be substituted;

(ix) for clause (jj), the following clause shall be substituted, namely:—

(jj) "regulations" means the regulations made by the Commission under this Act;";

(x) after clause (k), the following clause shall be inserted, namely:—

(ka) "scheme" means a scheme for corporatisation or demutualization of a recognised association which may provide for,—

(A) the issue of shares for a lawful consideration and provision for trading rights in lieu of membership cards of members of a recognised association;

(B) the restrictions on voting rights;

(C) the transfer of property, business, assets, rights, liabilities, recognitions, contracts of the recognised association, legal proceedings by, or against, the recognised association, whether in the name of the recognised association or any trustee or otherwise and any permission given to, or by, the recognised association;

(D) the transfer of employees of a recognised association to another recognised association;

(E) any other matter required for the purpose of, or in connection with, the corporatisation or demutualisation, as the case may be, of the recognised association;";

(xi) in clause (m), for the words "forward contract which provides for", the words "forward contract which provides for, and is performed by," shall be substituted.

4. In section 3 of the principal Act, for sub-sections (2), (3), (4) and (5), the following sub-section shall be substituted, namely:—

"(2) The Commission shall be a body corporate by the name aforesaid,

Amendment of  
Section 3.



having perpetual succession and a common seal with power, subject to the provisions of this Act, to acquire, hold and dispose of property, both movable and immovable, and to contract, and shall, by the said name, sue or be sued."

Insertion of new sections 3A, 3B, 3C, 3E, 3F, 3G and 3H.

5. After section 3 of the principal Act, the following sections shall be inserted, namely:—

Management of Commission.

"3A. (1) The Commission shall consist of the following members, namely:—

(a) a Chairman;

(b) two members from amongst the officials of the Ministries or Departments of the Central Government dealing with Consumer Affairs, Commodity Derivatives, Food and Public Distribution, Agriculture or Finance;

(c) one member from amongst the officials of the Reserve Bank;

(d) five other members of whom at least three shall be the whole-time members.

(2) The general superintendence, direction and management of the affairs of the Commission shall vest in a board of members, which may exercise all powers and do all acts and things which may be exercised or done by the Commission.

(3) Save as otherwise determined, by regulations, the Chairman shall have powers of general superintendence and direction of the affairs of the Commission and may also exercise all powers and do all acts and things which may be exercised or done by the Commission.

(4) The Chairman and members referred to in clauses (a) and (d) of sub-section (1) shall be appointed by the Central Government and the members referred to in clauses (b) and (c) of that sub-section shall be nominated by the Central Government and the Reserve Bank, respectively.

(5) The Chairman and other members referred to in clauses (a) and (d) of sub-section (1) shall be persons of ability, integrity and standing who have shown capacity in dealing with problems relating to commodity markets or who have special knowledge or experience of commerce or economics or law or finance or in administration or have practical experience in any matter which renders them suitable for appointment on the Commission:

Provided that every person appointed as Chairman and every other person appointed as member of the Commission and holding office as such immediately before the commencement of the Forward Contracts (Regulation) Amendment Ordinance, 2008, shall, notwithstanding any order for their appointment made under sub-section (2) of section 3 as it stood before the commencement of the Forward Contracts (Regulation) Amendment Ordinance, 2008, shall hold office till the Chairman or other member has been appointed in accordance with this section after such commencement and no person shall be entitled to claim any compensation for the premature termination of the term of his office or of any contract of service.

Term of office and conditions of service of Chairman and members of Commission.

3B. (1) The term of office and other conditions of service of the Chairman and the members referred to in clause (d) of sub-section (1) of section 3A shall be such as may be prescribed.

(2) Notwithstanding anything contained in sub-section (1), the Central Government shall have the right to terminate the services of the Chairman or a member appointed under clause (d) of sub-section (1) of section 3A, at any time before the expiry of the period prescribed under sub-section (1), by giving him notice of not less than three months in writing or three months' salary and allowances in lieu thereof, and the Chairman or a member, as the case may be, shall also have the right to relinquish his

office, at any time before the expiry of the period prescribed under sub-section (1), by giving to the Central Government notice of not less than three months in writing.

3C. The Central Government shall remove a member from office if he—

- (a) is, or at any time has been, adjudicated as insolvent;
- (b) is of unsound mind and stands so declared by a competent court;
- (c) has been convicted of an offence which, in the opinion of the Central Government, involves a moral turpitude;
- (d) has, in the opinion of the Central Government, so abused his position as to render his continuation in office detrimental to the public interest:

Provided that no member shall be removed under this clause unless he has been given a reasonable opportunity of being heard in the matter.

3D. (1) The Commission shall meet at such times and places, and shall observe such rules of procedure in regard to the transaction of business at its meetings including quorum at such meetings as may be provided by regulations.

(2) The Chairman or, if for any reason he is unable to attend the meeting of the Commission, any other member chosen by the members present from amongst themselves at the meeting shall preside at the meeting.

(3) All questions which come up before any meeting of the Commission shall be decided by a majority of votes of the members of the Commission present and voting, and in the event of an equality of votes, the Chairman or in his absence the member presiding, shall have a second or casting vote.

3E. No act or proceeding of the Commission shall be invalid merely by reason of—

- (a) any vacancy in, or any defect in the constitution of, the Commission;
- or
- (b) any defect in the appointment of a person acting as a member of the Commission; or
- (c) any irregularity in the procedure of the Commission not affecting the merits of the case.

3F. Any member, who is a director of a company and who as such director has any direct or indirect pecuniary interest in any matter coming up for consideration at a meeting of the Commission, shall, as soon as possible after relevant circumstances have come to his knowledge, disclose the nature of his interest at such meeting and such disclosure shall be recorded in the proceedings of the Commission, and the member shall not take any part in any deliberation or decision of the Commission with respect to that matter.

3G. The Chairman and the whole-time members shall not, for a period of two years from the date on which they cease to hold office as such, except with the previous approval of the Central Government, accept any employment with any person dealing with the commodities derivatives or with any intermediary.

3H. (1) The Commission may appoint such officers and other employees as it considers necessary for the efficient discharge of its functions under this Act.

(2) The terms and conditions of service of the officers and employees of the Commission appointed under sub-section (1) shall be such as may be determined by regulations:

Removal of member from office.

Meetings of Commission.

Vacancies, etc., not to invalidate proceedings of Commissions.

Member not to participate in meetings in certain cases.

Bar on future employment of members.

Officers and employees of Commission.

Provided that every officer and other employee holding any office under the Commission, before the commencement of the Forward Contracts (Regulation) Amendment Ordinance, 2008, shall continue to hold his office as such after such commencement for the same tenure and upon the same terms and conditions of service as respects remuneration, leave, provident fund, retirement and other terminal benefits as he would have held such office if the said Ordinance had not come into force and shall continue to do so as an officer or other employee of the Commission until the regulations are made under this sub-section or the expiry of one year from the date of such commencement or till the date on which such officer or other employee opts not to be the officer or other employee of the Commission, whichever is earlier."

Amendment of  
section 4.

6. In section 4 of the principal Act,—

(a) for clause (a), the following clauses shall be substituted, namely:—

"(a) to advise the Central Government in respect of matters arising out of the administration of this Act;

(aa) to grant or withdraw recognition of any association;";

(b) in clause (e), for the words "registered association or any member of such association", the words "any member of such association or any intermediary" shall be substituted;

(c) for clause (f), the following clauses shall be substituted, namely:—

"(f) to regulate the business of the associations;

(g) to regulate the functioning of members of the associations, clearing houses, warehouses and intermediaries;

(h) to levy fees for carrying out the purposes of this Act;

(i) to conduct research for the purpose of development and regulation of commodity derivatives market;

(j) to call from or furnishing to any such agencies, as may be specified by the Commission, such information as may be considered necessary by it for the efficient discharge of its functions;

(k) to protect the interests of the market participants in commodity derivatives markets;

(l) to promote and regulate self-regulatory organisations;

(m) to prohibit fraudulent and unfair trade practices relating to commodity derivatives markets;

(n) to promote investors' education and training of intermediaries;

(o) to prohibit insider trading in commodity derivative;

(p) to advise the Central Government as to the goods in respect of which forward contract or option in goods or option in commodity derivative may be notified;

(q) to perform such other duties and exercise such other powers as may be assigned to the Commission by or under this Act, or as may be prescribed."

Amendment of  
section 4A.

7. In section 4A of the principal Act, in sub-section (3), —

(a) for the words and figures "the Code of Criminal Procedure, 1898", the words and figures "the Code of Criminal Procedure, 1973" shall be substituted;

5 of 1898.

2 of 1974.



(b) for the word and figures "section 482", the word and figures "section 346" shall be substituted.

8. After section 4A of the principal Act, the following sections shall be inserted, namely:—

Insertion of new sections 4B and 4C.

"4B. Save as otherwise provided in section 4, if after making or causing to be made an inquiry, the Commission is satisfied that it is necessary, in the interest of trade and orderly development of commodity derivatives market, it may issue directions to any intermediary or association.

Power to issue directions by Commission.

4C. If the Commission finds, after causing an inquiry to be made, that any person has violated, or is likely to violate any provisions of this Act or any rules or regulations made thereunder, the Commission may pass an order requiring such person to cease and desist from committing or causing such violations."

Cease and desist proceedings.

9. After Chapter II of the principal Act, the following Chapter shall be inserted, namely:—

Insertion of new Chapter IIA.

### "CHAPTER IIA

#### FINANCE, ACCOUNTS AND AUDIT

4D. The Central Government may, after due appropriation made by Parliament by law in this behalf, make to the Commission grants of such sums of money as that Government may think fit for being utilised for the purposes of this Act.

Grants by Central Government.

4E. (1) There shall be constituted a Fund to be called the Forward Markets Commission General Fund and there shall be credited thereto—

Fund.

(i) all grants and fees received by the Commission under this Act;

(ii) all sums received by the Commission from such other sources as may be decided upon by the Central Government.

(2) The Fund shall be applied for meeting—

(i) the salaries, allowances and other remuneration of the members, officers and other employees of the Commission;

(ii) the expenses of the Commission in the discharge of its functions under section 4;

(iii) the expenses on objects and for purposes authorised by this Act:

Provided that the sums authorised to be paid and applied from and out of the Consolidated Fund of India and appropriated by law made by Parliament for the services and purposes of the Commission shall continue to be paid and applied for such services and purposes of the Commission till the Fund is constituted under this section.

4F. (1) The Commission shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form and manner as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.

Accounts and audit.

(2) The accounts of the Commission shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Commission to the Comptroller and Auditor-General of India.

(3) The Comptroller and Auditor-General of India and any other person appointed by him in connection with the audit of the accounts of the Commission shall have the

same rights and privileges and authority in connection with such audit as the Comptroller and Auditor-General generally has in connection with the audit of the Government accounts, and in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Commission.

(4) The accounts of the Commission as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf together with the audit report thereon shall be forwarded annually to the Central Government and that Government shall cause the same to be laid before each House of Parliament.”

Amendment of  
section 5.

10. In section 5 of the principal Act,—

(a) in sub-section (1),—

(i) for the words “forward contracts”, the words “forward contracts or option in goods or option in commodity derivative” shall be substituted;

(ii) for the words “Central Government”, the word “Commission” shall be substituted;

(b) in sub-section (2), for the words “forward contracts”, the words “forward contracts or option in goods or option in commodity derivative” shall be substituted;

(c) the following proviso shall be inserted at the end, namely:—

“Provided that the applications made to the Central Government, on or before the commencement of the Forward Contracts (Regulation) Amendment Ordinance, 2008 and pending with the Central Government on such date, shall be transferred to the Commission and thereafter the Commission shall dispose of such applications in accordance with the provisions of this Act.”

Amendment of  
section 6.

11. In section 6 of the principal Act,—

(a) in sub-section (1),—

(i) for the words “Central Government”, the word “Commission” shall be substituted;

(ii) for the words “the goods or classes of goods with respect to which forward contracts may be entered”, the words “the goods or classes of goods or commodity derivative or classes of commodity derivatives with respect to which forward contracts or options may be entered” shall be substituted;

(b) in sub-section (2),—

(i) for the words “Central Government”, at both the places where they occur, the word “Commission” shall be substituted;

(ii) in clause (b), for the words “of not more than three persons”, the words “such number of persons as the Commission may, having regard to the interest of trade in commodities and commodities derivatives, specify,” shall be substituted;

(c) in sub-section (3), for the words “Central Government”, the word “Commission” shall be substituted;

(d) after sub-section (4), the following proviso shall be inserted, namely:—

“Provided that the recognition granted by the Central Government, before the commencement of the Forward Contracts (Regulation) Amendment Ordinance, 2008, shall be deemed to have been granted by the Commission in accordance with the provisions of this Act.”

12. For section 7 of the principal Act, the following sections shall be substituted, namely:—

Substitution of new section for section 7.

Withdrawal of recognition.

‘7.(1) If the Commission is of opinion that any recognition granted to an association under the provisions of this Act should, in interest of the trade or in the public interest, be withdrawn, the Commission may, after giving a reasonable opportunity to the association to be heard in the matter, withdraw, by notification, the recognition granted to the said association:

Provided that no such withdrawal shall affect the validity of any contract entered into or made before the date of the notification, and the Commission may make such provision as it deems fit in the notification of withdrawal or in any subsequent notification similarly published for the due performance of any contract outstanding on that date.

(2) Where the recognised association has not been corporatised or demutualised or it fails to submit the scheme referred to in sub-section (1) of section 7B within the specified time therefor or the scheme has been rejected by the Commission under sub-section (5) of section 7B, the recognition granted to such association under section 6, shall, notwithstanding anything contained contrary to any other provision of this Act, stand withdrawn and the Commission shall publish, by notification, such withdrawal of recognition:

Provided that no such withdrawal shall affect the validity of any contract entered into or made before the date of the notification, and the Commission may, after consultation with the association, make such provisions as it deems fit, in the order rejecting the scheme published in the Official Gazette under sub-section (5) of section 7B.

7A. On and from the appointed date, all recognized associations (if not corporatised and demutualised before the appointed date) shall be corporatised and demutualised in accordance with the provisions contained in section 7B:

Corporation and demutualisation of associations.

Provided that different appointed dates may be appointed for different recognized associations:

Provided further that the Commission may, if it is satisfied that any recognized association was prevented by sufficient cause from being corporatised and demutualised on or after the appointed date, extend the appointed date specified in respect of that recognized association and such recognized association may continue as such before such appointed date.

*Explanation.*—For the purposes of this section, “appointed date” means the date which the Commission may, by notification, appoint.

7B. (1) All recognized associations referred to in section 7A shall, within such time as may be specified by the Commission, submit a scheme for corporatisation and demutualisation for its approval:

Procedure for corporation and demutualisation.

Provided that the Commission may, by notification, specify name of the recognised association, which had already been corporatised and demutualised, and such association shall not be required to submit the scheme under this section.

(2) On receipt of the scheme referred to in sub-section (1), the Commission may, after making such inquiry as may be necessary in this behalf and obtaining such further information, if any, as it may require and if it is satisfied that it would be in the interest of the trade in goods or commodity derivatives and also in the public interest, approve the scheme with or without modification.

(3) No scheme under sub-section (2) shall be approved by the Commission if the issue of shares for a lawful consideration or provision of trading rights in lieu of membership card of the members of a recognised association or payment of dividends to members have been proposed out of any reserves or assets of that association.

(4) Where the scheme is approved under sub-section (2), the scheme so approved shall be published immediately by—

(a) the Commission in the Official Gazette;

(b) the recognised association in such two daily newspapers circulating in India, as may be specified by the Commission, and upon such publication, notwithstanding anything contained contrary to any other provision of this Act or in any other law for the time being in force or any agreement, award, judgment, decree or other instrument for the time being in force, the scheme shall have effect and be binding on all persons and authorities including all members, creditors, depositors and employees of the recognised association and on all persons having any contract, right, power, obligation or liability with, against, over, to, or in connection with, the recognised association or its members.

(5) Where the Commission is satisfied that it would not be in the interest of the trade in goods or commodity derivatives and also in the public interest to approve the scheme under sub-section (2), it may, by an order, reject the scheme and such order of rejection shall be published by it in the Official Gazette:

Provided that the Commission shall give a reasonable opportunity of being heard to all the persons concerned and the recognised association concerned before passing an order rejecting the scheme.

(6) The Commission may, while approving the scheme under sub-section (2), by an order in writing, restrict—

(a) the voting rights of the shareholders who are also members of the recognised association;

(b) the right of shareholders or a member of the recognised association to appoint the representatives on the governing board of the association;

(c) the maximum number of representatives of the members of the recognised association to be appointed on the governing board of the association, which shall not exceed one-fourth of the total strength of the governing board.

(7) The order made under sub-section (6) shall be published in the Official Gazette and on the publication thereof, the order shall, notwithstanding anything to the contrary contained in the Companies Act, 1956, or in any other law for the time being in force, have full effect.

1 of 1956

(8) Every recognised association, in respect of which the scheme for corporatisation or demutualisation has been approved under sub-section (2) shall, either by fresh issue of equity shares to the public or in any other manner as may be specified by the regulations made by the Commission, ensure that at least fifty-one per cent. of its equity share capital is held, within twelve months from the date of publication of the order under sub-section (7), by the public other than shareholders having trading rights:

Provided that the Commission may, on sufficient cause being shown to it and in the public interest, extend the said period by another twelve months.



## 13. In section 8 of the principal Act,—

Amendment of  
section 8.

(a) in sub-sections (1) and (2) for the words "Central Government" wherever they occur, the words "Central Government or Commission" shall respectively be substituted;

(b) in sub-section (2), in clause (c), for the words "direct the Commission", the words "direct any agency or any of its officers" shall be substituted;

(c) in sub-section (3) for the word "inquiry" wherever it occurs, the words "inquiry or inspection" shall be substituted.

## 14. In section 9A of the principal Act, in sub-section (2),—

Amendment of  
section 9A.

(a) for the words "Central Government" wherever they occur, the words "Central Government or Commission" shall be substituted;

(b) for the words "that Government", the words "that Government or Commission" shall be substituted.

## 15. For section 10 of the principal Act, the following sections shall be substituted, namely:—

Substitution of  
new sections for  
section 10.

"10. (1) Whenever the Commission considers it expedient so to do, it may, by order in writing, direct any recognised association to make any rules or to amend any rules made by the recognised association within such period as it may specify in this behalf.

Power of  
Commission to  
direct rules to be  
made or to make  
rules.

(2) If any recognized association, against whom an order is issued by the Commission under sub-section (1), fails or neglects to comply with such order within the specified period, the Commission may make the rules or amend the rules made by the recognized association, as the case may be, either in the form specified in the order or with such modification thereof as the Commission may think fit.

(3) Where, in pursuance of sub-section (2), any rules have been made or amended, the rules so made or amended shall be published in the Gazette of India, and shall, thereupon, have effect notwithstanding anything to the contrary contained in the Companies Act, 1956 or any other law for the time being in force, as if they had been made or amended by the recognized association concerned.

10A. (1) A recognized association may, with the prior approval of the Commission, transfer the duties and functions of a clearing house to a clearing corporation, being a company incorporated under the Companies Act, 1956, for the purposes of—

Clearing  
corporation.

(a) the periodical settlement of contracts and differences thereunder;

(b) the delivery of, and payment for, goods;

(c) any other matter incidental to, or connected with, such transfer.

(2) Every clearing corporation shall, for the purpose of transfer of the duties and functions of a clearing house to a clearing corporation referred to in sub-section (1), make bye-laws and submit the same to the Commission for its approval.

(3) The Commission may, on being satisfied that it is in the interest of the trade and also in the public interest to transfer the duties and functions of a clearing house to a clearing corporation, grant approval to the bye-laws submitted to it under sub-section (2) and approve transfer of the duties and functions of clearing house to a clearing corporation referred to in sub-section (1).

(4) The provisions of sections 4, 5, 6, 7, 8, 9, 10, 11, 12, 12A, 12B and 13 shall, as far as may be, apply to a clearing corporation referred to in sub-section (1), as they apply in relation to a recognised association."

Amendment of section 11.

16. In section 11 of the principal Act,—

(a) in sub-section (1),—

(i) for the words "Central Government", the word "Commission" shall be substituted;

(ii) for the words "forward contracts", the words "forward contracts or option in goods or option in commodity derivative" shall be substituted;

(b) in sub-section (2), after the word "goods" wherever it occurs, the words "or forward contracts or option in goods or option in commodity derivative" shall be inserted;

(c) in sub-section (3), in clause (aa), for the brackets, figure and letter "(3A)", the brackets and figure "(4)" shall be substituted;

(d) in sub-section (4) and the proviso, for the words "Central Government" at both the places where they occur, the word "Commission" shall be substituted.

Substitution of new sections for sections 12 and 12A.

17. For sections 12 and 12A of the principal Act, the following sections shall be substituted, namely:—

Power of Commission to make or amend bye-laws of recognised association.

"12. (1) The Commission may, either on a request in writing received by it in this behalf from the governing body of a recognised association, or if in its opinion it is expedient so to do, make bye-laws for all or any of the matters specified in section 11 or amend any bye-laws made by such association under that section.

(2) Where, in pursuance of this section, any bye-laws have been made or amended, the bye-laws so made or amended shall be published in the Gazette of India and shall thereupon have effect as if they had been made or amended by the recognised association.

(3) Notwithstanding anything contained in this section, where the governing body of a recognised association objects to any bye-laws made or amended under this section by the Commission on its own motion, it may, within six months of the publication thereof under sub-section (2), apply to the Commission for a revision thereof, and the Commission may, after giving a reasonable opportunity to the governing body of the association to be heard in the matter, revise the bye-laws so made or amended, and where any bye-laws so made or amended are revised as a result of any action taken under this sub-section, the bye-laws so revised shall be published and shall become effective as provided in sub-section (2).

(4) The making or amendment or revision of any bye-laws under this section shall in all cases be subject to such conditions in regard to the previous publications as may be prescribed:

Provided that the Commission may, in the interest of the trade or in the public interest, by order in writing, dispense with the condition of previous publication.

12A. Any amendment of a bye-law made under section 11 other than an amendment made in pursuance of clause (a) or clause (aa) of sub-section (3) of that section or under section 12 shall also apply to all forward contracts or option in goods or option in commodity derivative entered into before the date of its approval by the Commission or before the date of its publication in the Gazette of India, as the case may be, and remaining to be performed on or after the said date."

Application of amendment of bye-laws to existing forward contracts or option in goods or option in commodity derivative.

**18. In section 12B of the principal Act,—**Amendment of  
section 12B.**(a) in sub-section (1),—**

**(i)** for the words “forward contract”, the words “forward contract or option in goods or option in commodity derivative” shall be substituted;

**(ii)** the words “of any goods or class of goods” shall be omitted;

**(iii)** after the words “any such contract”, the words “or option in goods or option in commodity derivatives” shall be inserted;

**(b)** in sub-section (3), for the words “forward contract” at both the places where they occur, the words “forward contract or option in goods or option in commodity derivative” shall be substituted.

**19. For section 13 of the principal Act, the following section shall be substituted, namely:—**Substitution of  
new section for  
section 133.

“13. (1) Without prejudice to any other powers vested in the Commission under this Act, where the Commission is of the opinion that the governing body of any recognised association should be superseded, then, notwithstanding anything contained in this Act or in any other law for the time being in force, the Commission may, after giving a reasonable opportunity to the governing body of the recognised association concerned to show cause why it should not be superseded, by notification, declare the governing body of such association to be superseded for such period not exceeding six months as may be specified in the notification, and may appoint any person or persons to exercise and perform all the powers and duties of the governing body, and where more persons than one are appointed, may appoint one of such persons to be the chairman and another of such person to be the vice-chairman.

Power of  
Commission to  
supersede  
governing body  
of recognised  
association.

(2) On the publication of a notification under sub-section (1), the following consequences shall ensue, namely:—

**(a)** the members of the governing body which has been superseded shall, as from the date of the notification of supersession, cease to hold office as such members;

**(b)** the person or persons appointed under sub-section (1) may exercise and perform all the powers and duties of the governing body which has been superseded;

**(c)** all such property of the recognised association as the person or persons appointed under sub-section (1) may, by order in writing, specify in this behalf as being necessary for the purpose of enabling him or them to carry out the purposes of this Act, shall vest in such person or persons.

(3) Notwithstanding anything to the contrary contained in any law or the rules or bye-laws of the association whose governing body is superseded under sub-section (1), the person or persons appointed under that sub-section shall hold office for such period as may be specified in the notification published under that sub-section, and the Commission may, from time to time, by like notification, vary such period.



(4) On the determination of the period of office of any person or persons appointed under this section, the recognised association shall forthwith reconstitute a governing body in accordance with its rules:

Provided that until a governing body is so reconstituted, the person or persons appointed under sub-section (1), shall, notwithstanding anything contained in sub-section (1), continue to exercise and perform their powers and duties.

(5) On the reconstitution of a governing body under sub-section (4), all the property of the recognised association which had vested in, or was in the possession of, the person or persons appointed under sub-section (1), shall vest or revert, as the case may be, in the governing body so reconstituted."

Amendment of section 14.

20. In section 14 of the principal Act, for the words "Central Government" at both the places where they occur, the word "Commission" shall be substituted.

Substitution of new Chapter for Chapter IIIA.

21. For Chapter IIIA of the principal Act, the following Chapter shall be substituted, namely:—

#### "CHAPTER IIIA

##### REGISTRATION OF MEMBERS AND INTERMEDIARIES

Registration of members and intermediaries.

14A. (1) On and from the commencement of the Forward Contracts (Regulation) Amendment Ordinance, 2008, no person intending to act as a member or intermediary shall deal in forward contract or option in goods or option in commodity derivative except under and in accordance with the conditions of a certificate of registration granted by the Commission in accordance with the regulations made under this Ordinance.

(2) A person, who in his capacity as a member or intermediary intends to deal in forward contract or option in goods or option in commodity derivative shall make an application for a certificate of registration to the Commission in such form along with such fee and containing such particulars as may be provided by regulations:

Provided that a person who was acting as a member or intermediary, before the commencement of the Forward Contracts (Regulation) Amendment Ordinance, 2008, may continue to do so for a period of six months from the date of such commencement if he has made an application for registration within the said period of six months, till the disposal of such application, whichever is later:

Provided further that the Commission may, by regulations, specify different fees for a class or classes of members or intermediaries on the basis of turnover of the business of such members or intermediaries.

(3) No foreign participant or foreign intermediary associated with the commodity derivatives market, as the Commission may, by notification in this behalf, specify, shall deal in forward contract or option in goods or option in commodity derivative except under and in accordance with the conditions of a certificate of registration obtained from the Commission in accordance with the regulations made under this Ordinance:

Provided that a foreign participant or foreign intermediary dealing in forward contract or option in goods or option in commodity derivative immediately before the commencement of this Ordinance, for which no certificate of registration was required prior to such commencement, may continue to deal in forward contract or option in goods until such time as rules may be made by the Central Government for such dealings or in case no such rules have been made until permitted as such by the Commission by notification.

(4) On receipt of an application under sub-section (2), the Commission may, after making such inquiry as it considers necessary in this behalf, by order in writing,

grant a certificate of registration on such terms and conditions as may be specified by regulations or refuse to grant such certificate:

Provided that, before refusing to grant such certificate, the person making the application shall be given an opportunity of being heard in the matter.

14B. The Commission may, by order, suspend or cancel the certificate of registration in such manner as may be provided by regulations:

Provided that no order under this section shall be made unless the person concerned has been given an opportunity of being heard in the matter."

22. For sections 15, 16 and 17 of the principal Act, the following sections shall be substituted, namely:—

"15. (1) Subject to the provisions contained in sections 17 and 18, every forward contract, entered into otherwise than between members of a recognized association or through or with any such member, shall be illegal.

(2) Any forward contract entered into in pursuance of sub-section (1) which is in contravention of any of the bye-laws specified in this behalf under clause (a) of sub-section (3) of section 11 shall be void—

(a) as respects the rights of any member of the recognised association who has entered into contract in contravention of any such bye-law and also,

(b) as respects the rights of any other person who has knowingly participated in the transaction entailing such contravention.

(3) Nothing in sub-section (2) shall affect the right of any person other than a member of the recognised association to enforce any such contract or to recover any sum under or in respect of such contract:

Provided that such person had no knowledge that such transaction was in contravention of any of the bye-laws specified under clause (a) of sub-section (3) of section 11.

(4) Any forward contract entered into in pursuance of sub-section (1) which at the date of the contract is in contravention of any of the bye-laws specified in this behalf under clause (aa) of sub-section (3) of section 11 shall be illegal.

(5) No member of a recognised association shall enter into any contract on his own account with any person other than a member of the recognised association, unless he has secured the consent or authority of such person and discloses in the note, memorandum or agreement of sale or purchase that he has bought or sold the forward contract, as the case may be, on his own account:

Provided that where the member has secured the consent or authority of such person otherwise than in writing he shall secure a written confirmation by such person of such consent or authority within three days from the date of such contract:

Provided further that in respect of any outstanding contract entered into by a member with a person other than a member of the recognised association, no consent or authority of such person shall be necessary for closing out in accordance with the bye-laws, the outstanding contract, if the member discloses in the note, memorandum or agreement of sale or purchase in respect of such closing out that he has bought or sold the goods, forward contract or option in goods or option in commodity derivative, as the case may be, on his own account.

Suspension or  
cancellation of  
certificate of  
registration.

Substitution of  
new sections for  
sections 15, 16  
and 17.

Forward  
contracts illegal  
or void in  
certain  
circumstances.

Consequences of  
contravention of  
section 15.

16. Notwithstanding anything contained in any other law for the time being in force or in any custom, usage or practice of the trade or the terms of any contract or the bye-laws of any association concerned relating to any contract,—

(a) every forward contract entered into on or before the date of commencement of the Forward Contracts (Regulation) Amendment Ordinance, 2008, and remaining to be performed after the said date and which is not in conformity with the provisions of section 15, shall be deemed to be closed out at such rate as the Commission may fix in this behalf and different rates may be fixed for different classes of such contracts;

(b) all differences arising out of any contract so deemed to be closed out shall be payable on the basis of the rate fixed under clause (a) and the seller shall not be bound to give and the buyer shall not be bound to take delivery of the goods.

Power to  
prohibit forward  
contract or  
options in goods  
or option in  
commodity  
derivative.

17. (1) The Central Government may, by notification, declare that no person shall, save with the permission of the Central Government, deal in any forward contract or option in goods or option in commodity derivative specified in the notification, except to the extent and in the manner, if any, as may be specified in the notification.

(2) All forward contracts or options in goods or options in commodity derivative in contravention of the provisions of sub-section (1) entered into after the date of publication of the notification thereunder shall be illegal.

(3) Where a notification has been issued under sub-section (1), the provisions of section 16 shall, in the absence of anything to the contrary in the notification, apply to all forward contracts and options in goods for the sale or purchase of any goods specified in the notification (entered into on or before the date of the notification) and remaining to be performed after the said date.”

Amendment of  
section 18.

23. In section 18 of the principal Act,—

(a) in sub-section (1),—

(i) for the words “non-transferable specific delivery contracts”, the words and brackets “specific delivery contracts (both transferable and non-transferable)” shall be substituted;

(ii) in the proviso, for the words “non-transferable specific delivery contract”, the words and brackets “specific delivery contracts (both transferable and non-transferable)” shall be substituted;

(b) sub-section (2) shall be omitted;

(c) in sub-section (3), for the words “non-transferable specific delivery contracts” at both the places where they occur, the words and brackets “specific delivery contracts (both transferable and non-transferable)” shall be substituted.

Substitution of  
new section for  
section 19.

24. For section 19 of the principal Act, the following section shall be substituted, namely:—

Option in goods  
or option in  
commodity  
derivative illegal  
in certain  
circumstances.

“19. (1) Any option in goods or option in commodity derivative which has been entered into on or after the commencement of the Forward Contracts (Regulation) Amendment Ordinance, 2008, otherwise than between members of a recognised association or through or with any such member shall be illegal.

(2) The provisions of sub-sections (2), (3), (4) and (5) of section 15 shall apply to options in goods or option in commodity derivative as they apply in relation to a forward contract.”

**25. In section 20 of the principal Act,—**Amendment of  
section 20.

(i) in clause (a), in sub-clause (iii), for the words “forward contract”, the words “forward contract or option in goods or option in commodity derivative” shall be substituted;

(ii) clause (b) shall be omitted;

(iii) in clause (c), for the words “forward contract”, the words “forward contract or option in goods or option in commodity derivative” shall be substituted;

(iv) after clause (d), the following clause shall be inserted, namely:—

“(da) fails to make or accept delivery of goods covered by non-transferable specific delivery contracts or by transferable specific contracts where rights and obligations have not been transferred, as the case may be; or”

(v) for clause (e), the following clause shall be substituted, namely:—

“(e) enters into any forward contract or option in goods or option in commodity derivative in contravention of any of the provisions contained in sub-section (1) or sub-section (4) or sub-section (5) of section 15 or section 17 or section 19;”

(vi) after the words “shall, on conviction, be punishable—” occurring below clause (e),—

(A) in clause (i), for the words “one thousand rupees”, the words “twenty-five thousand rupees but which may extend to twenty-five lakh rupees” shall be substituted;

(B) in clause (ii),—

(I) for the words, brackets and letter “under clause (d)”, the words, brackets and letters “under clause (d) or under clause (da)” shall be substituted;

(II) for the words “one thousand rupees”, the words “twenty-five thousand rupees” shall be substituted.

**26. In section 21 of the principal Act,—**Amendment of  
section 21.

(i) in clauses (a) to (f) for the words “forward contracts” wherever they occur, the words “forward contract or option in goods or option in commodity derivative” shall be substituted;

(ii) in clause (g), for the words and figures “in respect of goods to which the provisions of section 15 have been made applicable”, the words “in respect of goods or option in goods or option in commodity derivative” shall be substituted;

(iii) for clause (h), the following clause shall be substituted, namely:—

“(h) manipulates or attempts to manipulate prices in respect of forward contracts or option in goods or option in commodity derivative;”

(iv) after the words “shall, on conviction, be punishable—” occurring below clause (h), in clauses (i) and (ii), for the words “one thousand rupees”, the words “twenty-five thousand rupees but which may extend to twenty-five lakh rupees” shall be substituted.



Substitution of new sections for section 21A.

Penalty for failure to furnish information, return, etc.

27. For section 21A of the principal Act, the following sections shall be substituted, namely:—

“21A. If any person, who is required under this Act or any rules or regulations made thereunder,—

(a) to furnish any document, return or report to the Commission, fails to furnish the same, he shall be liable to a penalty of twenty thousand rupees for each day during which such failure continues or five lakh rupees, whichever is less;

(b) to file any return or furnish any information, books or other documents within the time specified therefor in the regulations, fails to file or furnish the same within the time specified therefor in the regulations, he shall be liable to pay a penalty not exceeding five thousand rupees for each day during which such failure continues or five lakh rupees, whichever is less;

(c) to maintain books of account or records, fails to maintain the same, he shall be liable to a penalty of ten thousand rupees for each day during which such failure continues or five lakh rupees, whichever is less;

(d) or who was in charge of, and was responsible to, an association for the conduct of the business of the association, obstructs any officer of the Commission or any other person authorised by it to conduct inspection or to discharge any other function assigned by the Commission, such person as well as the association shall be liable to pay a fine of rupees one lakh for every occasion of such obstruction.

Penalty for failure by any person to enter into an agreement with clients.

21B. If any person, who is registered as a member or an intermediary and is required under this Act or any rules or regulations made thereunder to enter into an agreement with his client, fails to enter into such agreement, he shall be liable to a penalty of twenty thousand rupees for each such failure during which such failure continues or five lakh rupees, whichever is less.

Penalty for failure to redress clients' grievances.

21C. If any person, who is registered as a member or an intermediary, after having been called upon by the Commission in writing to redress the grievances of clients, fails to redress such grievances within the time specified by the Commission, he shall be liable to a penalty not exceeding two thousand rupees for each day during which such failure continues or five lakh rupees, whichever is less.

Penalty for insider trading.

21D. If any insider who,—

(i) either on his own behalf or on behalf of any other person, deals in forward contract or option in goods or option in commodity derivative on any association on the basis of any unpublished price sensitive information; or

(ii) communicates any unpublished price sensitive information to any person, with or without his request for such information except as required in the ordinary course of business or under any law; or

(iii) counsels, or procures for any other person to deal in any forward contract or option in goods or option in commodity derivative on the basis of unpublished price sensitive information,

shall be liable to a penalty of twenty-five lakh rupees or three times the amount of profits made out of insider trading, whichever is higher.

Penalty for fraudulent and unfair trade practices.

21E. If any person indulges in fraudulent and unfair trade practices relating to forward contract or option in goods or option in commodity derivative, he shall be liable to a penalty of twenty-five lakh rupees or three times the amount of profits made out of such practices, whichever is higher.

21F. If any person, who is registered as an intermediary under this Act or any regulations made thereunder,—

Penalty for default in case of an intermediary.

(a) fails to issue contract notes in the form and manner specified by the association of which such intermediary is a member, he shall be liable to a penalty not exceeding five times the amount for which the contract note was required to be issued by that intermediary;

(b) fails to deliver any goods or fails to make payment of the amount due to the client or in the manner or within the period specified in the regulations, he shall be liable to a penalty not exceeding five thousand rupees for each day during which such failure continues;

(c) charges an amount of brokerage which is in excess of the brokerage specified by the association, he shall be liable to a penalty of five thousand rupees or five times the amount of brokerage charged in excess of the specified brokerage, whichever is higher.

21G. Any person, who fails to comply with the directions issued by the Commission under section 4B, shall be liable to pay a penalty not exceeding two lakh rupees for each day during which such failure continues which may extend to five lakh rupees.

Penalty for failure to comply with directions of Commission.

21H. (1) Without prejudice to any award of penalty by the adjudicating officer under this Act, if any person contravenes or attempts to contravene or abets the contravention any of the provisions of this Act or of any rules or regulations made thereunder, he shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both.

Consequences of failure to pay penalty.

(2) If any person fails to pay the penalty imposed by the adjudicating officer or fails to comply with any of his directions or orders, he shall be punishable with imprisonment for a term which shall not be less than one month but which may extend to three years or with fine or with both.

21-I. (1) For the purposes of adjudging under sections 21A to 21G, the Commission shall appoint any of its officers not below the rank of a Division Chief to be an adjudicating officer for holding an inquiry in the prescribed manner after giving any person concerned a reasonable opportunity of being heard for the purpose of imposing any penalty.

Power to adjudicate.

(2) While holding an inquiry, the adjudicating officer shall have power to summon and enforce the attendance of any person acquainted with the facts and circumstances of the case to give evidence or to produce any document which, in the opinion of the adjudicating officer, may be useful for or relevant to the subject matter of the inquiry and if, on such inquiry, he is satisfied that the person has failed to comply with the provisions of any of the sections specified in sub-section (1), he may impose such penalty as he thinks fit in accordance with the provisions of any of those sections.

21J. While adjudging the quantum of penalty under section 21-I, the adjudicating officer shall have due regard to the following factors, namely:—

Factors to be taken into account by adjudicating officer.

(a) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;

(b) the amount of loss caused to a client or group of clients as a result of the default;

(c) the repetitive nature of the default.

21K. All sums realised by way of penalties under this Act shall be credited to the Consolidated Fund of India.

Crediting sums realised by way of penalties to Consolidated Fund of India.

Power of court to order forfeiture of property:

21L. Any court trying an offence punishable under this Act, may, if it thinks fit and in addition to any sentence which it may impose for such offence, direct that any money, goods or other property in respect of which the offence has been committed, shall be forfeited to the Central Government.

**Explanation.**—For the purposes of this section, property in respect of which an offence has been committed, shall include deposits in a bank where the said property is converted into such deposits.”

Amendment of section 22A.

28. In section 22A of the principal Act,—

(a) in sub-section (1),—

(i) after the words “forward contracts or options in goods”, the words “or option in commodity derivative” shall be inserted;

(ii) after the words “forward contract or option in goods”, the words “or option in commodity derivative” shall be inserted;

(b) for sub-section (2), the following sub-sections shall be substituted, namely:—

“(2) The provisions of the Code of Criminal Procedure, 1973, shall, so far as may be, apply to search or seizure made under sub-section (1) as they apply to any search or seizure made under the authority of a warrant issued under section 94 of the said Code.

(3) The Commission may, notwithstanding anything contained in this Act, file cases in respect of offences committed under this Act, directly to the courts having jurisdiction in respect of such offences.”

Amendment of section 22B.

29. In section 22B of the principal Act, in sub-section (1), after the words “or option in goods”, the words “or option in commodity derivative” shall be inserted.

Insertion of new section 22C.

30. After section 22B of the principal Act, the following section shall be inserted, namely:—

Investigation.

“22C. (1) Where the Commission has reasonable grounds to believe that—

(a) the transactions in forward contracts or option in goods or option in commodity derivative are being dealt with in a manner detrimental to the commodity market or person associated with the commodity market; or

(b) any intermediary or any person associated with the commodities market has violated any of the provisions of this Act or the rules or regulations made or directions issued by the Commission thereunder, it may, at any time by order in writing, direct any person (hereafter in this section referred to as the Investigating Authority) specified in the order to investigate the affairs of such intermediary or person associated with the commodities market and to report thereon to the Commission.

(2) Without prejudice to the provisions of sections 235 to 241 of the Companies Act, 1956, it shall be the duty of every manager, managing director, officer and other employee of the company and every intermediary referred to in section 14A, every person associated with the commodities market to preserve and to produce to the Investigating Authority or any person authorised by him in this behalf, all the books, registers, other documents and record of, or relating to, the company or, as the case may be, of or relating to, the intermediary or such person, which are in their custody or power.

(3) The Investigating Authority may require any intermediary or any person associated with commodities market in any manner to furnish such information to, or



produce such books, or registers, or other documents, or record before him or any person authorised by him in this behalf as he may consider necessary if the furnishing of such information or the production of such books, or registers, or other documents, or record is relevant or necessary for the purposes of its investigation.

(4) The Investigating Authority may keep in its custody any books, registers, other documents and record produced under sub-section (2) or sub-section (3) for six months and thereafter shall return the same to any intermediary or any person associated with commodities market by whom or on whose behalf the books, registers, other documents and record are produced.

Provided that the Investigating Authority may call for any books, registers, other documents and record if they are needed again.

Provided further that if the person on whose behalf the books, registers, other documents and record are produced requires certified copies of the books, registers, other documents and record produced before the Investigating Authority, it shall give certified copies of such books, registers, other documents and record to such person or on whose behalf the books, registers, other documents and record were produced.

(5) Any person, directed to make an investigation under sub-section (7), may examine on oath, any manager, managing director, officer and other employee of any intermediary or any person associated with commodities market in any manner, in relation to the affairs of his business and may administer an oath accordingly and for that purpose may require any of those persons to appear before him personally.

(6) If any person fails without reasonable cause or refuses—

(a) to produce to the Investigating Authority or any person authorised by it in this behalf any book, register, other document and record which is his duty under sub-section (2) or sub-section (3) to produce; or

(b) to furnish any information which is his duty under sub-section (3) to furnish; or

(c) to appear before the Investigating Authority personally when required to do so under sub-section (5) or to answer any question which is put to him by the Investigating Authority in pursuance of that sub-section; or

(d) to sign the notes of any examination referred to in sub-section (7),

he shall be punishable with imprisonment for a term which may extend to one year, or with fine, which may extend to one lakh rupees, or with both, and also with a further fine which may extend to twenty thousand rupees for every day after the first during which the failure or refusal continues.

(7) Notes of any examination under sub-section (5) shall be taken down in writing and shall be read over to, or by, and signed by, the person examined, and may thereafter be used in evidence against him.

(8) Where in the course of investigation, the Investigating Authority has reasonable ground to believe that the books, registers, other documents and record of, or relating to, any intermediary or any person associated with commodities market in any manner, may be destroyed, mutilated, altered, falsified or secreted, the Investigating Authority may make an application to the Judicial Magistrate of the first class having jurisdiction for an order for the seizure of such books, registers, other documents and record.

(9) After considering the application and hearing the Investigating Authority, if necessary, the Magistrate may, by order, authorise the Investigating Authority—

(a) to enter, with such assistance, as may be required, the place or places where such books, registers, other documents and record are kept;

(b) to search that place or these places in the manner specified in the order; and

(c) to seize books, registers, other documents and record, as it considers necessary for the purposes of the investigation.

(10) The Investigating Authority shall keep in its custody the books, registers, other documents and record seized under this section for such period not later than the conclusion of the investigation as it considers necessary and thereafter shall return the same to the company or the other body corporate, or, as the case may be, to the managing director or the manager or any other person, from whose custody or power they were seized and inform the Magistrate of such return:

Provided that the Investigating Authority may, before returning such books, registers, other documents and record as aforesaid, place identification marks on them or any part thereof.

(11) Save as otherwise provided in this section, every search or seizure made under this section shall be carried out in accordance with the provisions of the Code of Criminal Procedure, 1973, relating to searches or seizures made under that Code." 74 of 1952.

Amendment of section 23.

31. In section 23 of the principal Act, after clause (d), the following clause shall be inserted, namely:—

"(e) an offence falling under section 21H."

Insertion of new section 24A.

32. In Chapter V of the principal Act, after section 24, the following section shall be inserted, namely:—

Civil court not to have jurisdiction.

"24A. No civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which an adjudicating officer appointed under this Act or the Appellate Tribunal is empowered by or under this Act to determine and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act."

Insertion of new Chapter VA.

33. After Chapter V of the principal Act, the following Chapter shall be inserted, namely:—

#### CHAPTER VA

#### JURISDICTION AND AUTHORITY OF APPELLATE TRIBUNAL

Appeal to Appellate Tribunal.

24B. (1) Save as provided in sub-section (2), any person aggrieved on or after the commencement of the Forward Contracts (Regulation) Amendment Ordinance, 2008, or by an order of the Commission made, or the rules or regulations made thereunder or by an order made by an adjudicating officer under this Act may prefer an appeal to the Appellate Tribunal having jurisdiction in the matter.

(2) The Central Government shall specify, by notification, the matters and places in relation to which the Appellate Tribunal may exercise jurisdiction.

(3) No appeal shall lie to the Appellate Tribunal from an order made by the Commission or an adjudicating officer with the consent of the parties.

(4) Every appeal under sub-section (1) shall be filed within a period of forty-five days from the date on which a copy of the order made by the Chairman of the Commission is received by the aggrieved person and it shall be in such form and be accompanied by such fee as may be prescribed:

Provided that the Appellate Tribunal may entertain an appeal after the expiry of the said period if it is satisfied that there was sufficient cause for not filing it within that period.



(5) On receipt of an appeal under sub-section (1), the Appellate Tribunal may, after giving the parties to the appeal, an opportunity of being heard, pass such orders thereon as it thinks fit, confirming, modifying or setting aside the order appealed against.

(6) The Appellate Tribunal shall send a copy of every order made by it to the parties to the appeal and to the concerned authority whose order has been appealed against.

(7) The appeal filed before the Appellate Tribunal under sub-section (1) shall be dealt with by it as expeditiously as possible and endeavour shall be made by it to dispose of the appeal finally within six months from the date of receipt of the appeal.

24C. The appellant may either appear in person or authorise one or more chartered accountants or company secretaries or cost accountants or legal practitioners or any of its officers to present his or its case before the Appellate Tribunal.

Right to legal representation.

*Explanation.*—For the purposes of this section,—

(a) "chartered accountant" means a chartered accountant as defined in clause (b) of sub-section (1) of section 2 of the Chartered Accountants Act, 1949 and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;

(b) "company secretary" means a company secretary as defined in clause (c) of sub-section (1) of section 2 of the Company Secretaries Act, 1980 and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;

(c) "cost accountant" means a cost accountant as defined in clause (b) of sub-section (1) of section 2 of the Cost and Works Accountants Act, 1959 and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;

(d) "legal practitioner" means an advocate, vakil or an attorney of any High Court, and includes a pleader in practice.

24D. The provisions of the Limitation Act, 1963 shall, as far as may be, apply to an appeal made to the Appellate Tribunal.

Limitation

24E. Any person aggrieved by any decision or order of the Appellate Tribunal may file an appeal to the Supreme Court within sixty days from the date of communication of the decision or order of the Appellate Tribunal to him on any question of law arising out of such order:

Appeal to Supreme Court.

Provided that the Supreme Court may, if it is satisfied that the applicant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding sixty days."

34. After section 26 of the principal Act, the following sections shall be inserted, namely:—

Insertion of new sections 26A, 26B, 26C, 26D, 26E and 26F.

"26A. (1) Without prejudice to the foregoing provisions of this Act, the Commission shall, in exercise of its powers or performance of its functions under this Act, be bound by such directions on questions of policy as the Central Government may give in writing to it from time to time:

Power of Central Government to issue directions.

Provided that the Commission shall, as far as practicable, be given an opportunity to express its views before any direction is given under this sub-section.

(2) The decision of the Central Government, whether a question is one of policy or not, shall be final.

Power of Central Government to supersede Commission:

26B. (1) If at any time the Central Government is of the opinion—

(a) that on account of grave emergency, the Commission is unable to discharge the functions and perform the duties imposed on it by or under the provisions of this Act; or

(b) that the Commission has persistently made wilful default in complying with any direction issued by the Central Government under this Act or in the discharge of the functions and perform the duties imposed on it by or under the provisions of this Act and as a result of such default the financial position of the Commission or the administration of the Commission has deteriorated; or

(c) that circumstances exist which render it necessary in the public interest so to do,

the Central Government may, by notification, supersede the Commission for such period, not exceeding six months, as may be specified in the notification.

(2) Upon the publication of a notification under sub-section (1) superseding the Commission,—

(a) all the members shall, as from the date of supersession, vacate their offices as such;

(b) all the powers, functions and duties which may, by or under the provisions of this Act, be exercised or discharged by or on behalf of the Commission shall, until the Commission is reconstituted under sub-section (3), be exercised and discharged by such person or persons as the Central Government may direct; and

(c) all property owned or controlled by the Commission shall, until the Commission is reconstituted, vest in the Central Government.

(3) On the expiration of the period of supersession specified in the notification issued under sub-section (1), the Central Government may reconstitute the Commission by fresh appointment and in such case any person or persons who vacated their offices under clause (a) of sub-section (2), shall not be deemed disqualified for such appointment.

Provided that the Central Government may, at any time before the expiration of the period of supersession, take action under this sub-section.

(4) The Central Government shall cause a notification issued under sub-section (1) and a full report of any action taken under this section and the circumstances leading to such action to be laid before each House of Parliament at the earliest.

26C. (1) The Commission shall furnish to the Central Government at such time and in such form and manner as may be prescribed or as the Central Government may direct, such returns and statements and such particulars in regard to any proposed or existing programme for the promotion and development of the commodities market, as the Central Government may, from time to time, require.

(2) Without prejudice to the provisions of sub-section (1), the Commission shall, within ninety days, after the end of each financial year, submit to the Central Government a report in such form, as may be prescribed, giving a true and full account of its activities, policy and programmes during the previous financial year.

(3) A copy of the report received under sub-section (2) shall be laid, as soon as may be after it is received, before each House of Parliament.

Returns and Reports  
Sections 26C, 26D, 26E, 26F, 26G, 26H, 26I, 26J, 26K, 26L, 26M, 26N, 26O, 26P, 26Q, 26R, 26S, 26T, 26U, 26V, 26W, 26X, 26Y, 26Z, 26AA, 26AB, 26AC, 26AD, 26AE, 26AF, 26AG, 26AH, 26AI, 26AJ, 26AK, 26AL, 26AM, 26AN, 26AO, 26AP, 26AQ, 26AR, 26AS, 26AT, 26AU, 26AV, 26AW, 26AX, 26AY, 26AZ, 26BA, 26BB, 26BC, 26BD, 26BE, 26BF, 26BG, 26BH, 26BI, 26BJ, 26BK, 26BL, 26BM, 26BN, 26BO, 26BP, 26BQ, 26BR, 26BS, 26BT, 26BU, 26BV, 26BW, 26BX, 26BY, 26BZ, 26CA, 26CB, 26CC, 26CD, 26CE, 26CF, 26CG, 26CH, 26CI, 26CJ, 26CK, 26CL, 26CM, 26CN, 26CO, 26CP, 26CQ, 26CR, 26CS, 26CT, 26CU, 26CV, 26CW, 26CX, 26CY, 26CZ, 26DA, 26DB, 26DC, 26DD, 26DE, 26DF, 26DG, 26DH, 26DI, 26DJ, 26DK, 26DL, 26DM, 26DN, 26DO, 26DP, 26DQ, 26DR, 26DS, 26DT, 26DU, 26DV, 26DW, 26DX, 26DY, 26DZ, 26EA, 26EB, 26EC, 26ED, 26EE, 26EF, 26EG, 26EH, 26EI, 26EJ, 26EK, 26EL, 26EM, 26EN, 26EO, 26EP, 26EQ, 26ER, 26ES, 26ET, 26EU, 26EV, 26EW, 26EX, 26EY, 26EZ, 26FA, 26FB, 26FC, 26FD, 26FE, 26FF, 26FG, 26FH, 26FI, 26FJ, 26FK, 26FL, 26FM, 26FN, 26FO, 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26D. The Commission may, by general or special order in writing, delegate to any member or officer of the Commission or any other person subject to such conditions, if any, as may be specified in the order, such of its powers and functions under this Act (except the powers under section 28) as it may deem necessary.

Delegation.

26E. No order passed by the Commission or the adjudicating officer under this Act shall be appealable except as provided in section 24B and no civil court shall have jurisdiction in respect of any matter which the Commission or the adjudicating officer is empowered by, or under, this Act to pass any order and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any order passed by the Commission or the adjudicating officer by, or under, this Act.

Bar of jurisdiction.

26F. All members, officers and other employees of the Commission shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Act, to be public servants within the meaning of section 21 of the Indian Penal Code."

45 of 1860.

Members, officers and employees of Commission to be public servants.

35. After section 27A of the principal Act, the following section shall be inserted, namely:—

Insertion of new section 27B.

27 of 1957

43 of 1961

"27B. Notwithstanding anything contained in the Wealth-tax Act, 1957, the Income-tax Act, 1961, or any other enactment for the time being in force relating to tax on wealth, income, profits or gains, the Commission shall not be liable to pay wealth-tax, income-tax or any other tax in respect of their wealth, income, profits or gains derived."

Exemption from tax on wealth and income.

36. In section 28 of the principal Act, in sub-section (2),—

Amendment of section 28.

(i) clause (cc) shall be omitted;

(ii) for clause (g), the following clauses shall be substituted, namely:—

"(g) the duties and powers which may be performed or exercised by the Commission under clause (q) of section 4;

(h) the form and manner in which the annual statement of accounts shall be maintained under sub-section (1) of section 4F;

(i) the rules for dealing by foreign participant or foreign intermediary under the proviso to sub-section (3) of section 14A;

(j) the manner in which an inquiry shall be held under sub-section (1) of section 21-I;

(k) the form in which an appeal may be filed before the Appellate Tribunal under sub-section (4) of section 24B and the fees payable in respect of such appeal;

(l) the form and the manner in which returns and report to be made to the Central Government under section 26C;

(m) any other matter which is to be, or may be, prescribed, or in respect of which provision is to be, or may be, made by rules."

37. After section 28 of the principal Act, the following sections shall be inserted, namely:—

Insertion of new sections 28A and 28B.

"28A. (1) The Commission may, by notification, make regulations consistent with this Act and the rules made thereunder to carry out the purposes of this Act.

Power to make regulations.

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:—

(a) the time and places of meetings of the Commission and the procedure to be followed at such meetings under section 3D including quorum necessary for the transaction of business;

(b) the terms and other conditions of service of officers and employees of the Commission under sub-section (2) of section 3H;

(c) the manner in which the fresh issue of equity shares shall be made to the public under sub-section (8) of section 7B;

(d) the conditions of certificate of registration to act as a member or intermediary to deal with forward contract or option in goods or option in commodity derivative under sub-section (1) of section 14A;

(e) the fee for a class or classes of member or intermediary under the second proviso to sub-section (2) of section 14A;

(f) the terms and conditions subject to which registration may be granted under sub-section (4) of section 14A;

(g) the manner in which the certificate of registration may be suspended or cancelled under section 14B;

(h) any other matter relating to trading, clearing, settlement, and delivery of goods, forward contract, option in goods or option in commodity derivative.

(3) Every regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the regulation or both Houses agree that the regulation should not be made, the regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that regulation.

Application of  
other laws not  
barred.

28B. The provisions of this Act shall be in addition to, and not in derogation of, the provisions of any other law for the time being in force.”

### CHAPTER III

#### AMENDMENT TO THE SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992

Amendment of  
section 15U of  
Act 15 of 1992.

38. In section 15U of the Securities and Exchange Board of India Act, 1992, in sub-section (2), for the words “under this Act”, the words “under this Act or any other law for the time being in force” shall be substituted.

Sd/-

**PRATIBHA DEVISINGH PATIL,**  
President

**K. D. SINGH,**  
Secretary to the Government of India

By order and in the name of the Governor of Gujarat,

**H. D. VYAS**  
Secretary to Government.



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# The Gujarat Government Gazette

## EXTRAORDINARY

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#### PART - VI

Acts of Parliament and Ordinances promulgated by the President.

#### LEGISLATIVE & PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 31<sup>st</sup> March, 2008.

No. RPB/1-2008/Act-42-07/E :- The following Act of Parliament is republished for general information :-

#### GOVERNMENT OF INDIA MINISTRY OF LAW AND JUSTICE Legislative Department

New Delhi, the 30<sup>th</sup> November, 2007, /Agrahayana 9, 1929 (Sake)

The following Act of Parliament has received the assent of the President on the 30<sup>th</sup> November, 2007, is hereby published for general information :-

#### THE ALL INDIA INSTITUTE OF MEDICAL SCIENCES AND THE POST-GRADUATE INSTITUTE OF MEDICAL EDUCATION AND RESEARCH (AMENDMENT) ACT, 2007 AN ACT

(Act No. 42 of 2007)

[30<sup>th</sup> November, 2007]

*further to amend the All-India Institute of Medical Sciences Act, 1956 and the Post-Graduate Institute of Medical Education and Research, Chandigarh, Act, 1966:-*

BE it enacted by Parliament in the Fifty-eight Year of the Republic of India as follows :-

1. This Act may be called the All-India Institute of Medical Sciences and the Post-Graduate Institute of Medical Education and Research (Amendment) Act, 2007.

Short title.

2. In the All-India Institute of Medical Sciences Act, 1956, in section 11, after sub-section (1), the following sub-section shall be inserted, namely :-

Amendment  
of Section 11  
of Act 25 of  
1956.

"(1A) The Director shall hold office for a term of five years from the date on which he enters upon his office or until he attains the age of sixty-five years, whichever is earlier :

Provided that any person holding office as a Director immediately before the commencement of the All-India Institute of Medical Sciences and the Post-Graduate Institute of Medical Education and Research (Amendment) Act, 2007, shall in so far as his appointment is inconsistent with the provisions of this sub-section, cease to hold office on such commencement as such Director and shall be entitled to claim compensation not exceeding three months' pay and allowances for the premature termination of his office or of any contract of service."

Amendment  
of Section 11  
of Act 51 of  
1966.

3. In the post-Graduate Institute of Medical Education and Research, Chandigarh Act, 1966, in section 11, after sub-section (1), the following sub-section shall be inserted, namely :-

"(1A) The Director shall hold office for a term of five years from the date on which he enters upon his office or until he attains the age of sixty-five years, whichever is earlier :

Provided that any person holding office as a director immediately before the commencement of the All-India Institute of Medical Sciences and the Post-Graduate Institute of Medical Education and Research (Amendment) Act, 2007, shall in so far as his appointment is inconsistent with the provisions of this sub-section, cease to hold office on such commencement as such Director and shall be entitled to claim compensation not exceeding three months' pay and allowances for the premature termination of his office or of any contract of service."

Sd/-

Dr. K. N. CHATURVEDI,  
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

H. D. VYAS,  
Secretary to Government.





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#### LEGISLATIVE & PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 31<sup>st</sup> March, 2008.

No. RPB/3-2008/Act-44-07/E :- The following Act of Parliament is republished for general information :-

GOVERNMENT OF INDIA  
MINISTRY OF LAW AND JUSTICE  
Legislative Department

New Delhi, the 6<sup>th</sup> December, 2007, /Agrahayana 15, 1929 (Sake)

The following Act of Parliament has received the assent of the President on the 5<sup>th</sup> December, 2007, is hereby published for general information :-

#### THE AIRCRAFT (AMENDMENT) ACT, 2007

##### AN ACT

(Act No. 44 of 2007)

[5<sup>th</sup> December, 2007]

*further to amend the Aircraft Act, 1934*

Be it enacted by Parliament in the Fifty-eighth Year of the Republic of India as follows :-

1. (1) This Act may be called the Aircraft (Amendment) Act, 2007.

Short title and  
commencement

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

22 of 1934.

2. In section 1 of the Aircraft Act, 1934 (hereinafter referred to as the principal Act), in sub-section (2),--

Amendment of  
section 1.

(i) in clause (a), the word "and" shall be omitted;

(ii) after clause (b), the following clauses shall be inserted, namely :-

"(c) to, and to the persons on, aircraft registered outside India but for the time being in or over India; and

(d) to an aircraft operated by a person who is not a citizen of India but has his principal place of business or permanent residence in India".

VI-Ex.-5

5-1

Amendment of  
section 4.

3. In section 4 of the principal Act, for the words "the Central government", the words and figures "Subject to the provisions of section 14, the Central Government" shall be substituted.

Insertion of  
new section 4A.

4. After section 4 of the principal Act, the following section shall be inserted, namely :-

Safety  
oversight  
functions.

"4A. The Director general of Civil Aviation or any other officer specially empowered in this behalf by the Central Government shall perform the safety oversight functions in respect of matters specified in this Act or the rules made thereunder."

Amendment of  
section 5.

5. In section 5 of the principal Act,--

(a) in sub-section (1), for the words "The Central Government", the words and figures "Subject to the provisions of section 14, the Central Government" shall be substituted;

(b) in sub-section (2),--

(i) for clause (b), the following clauses shall be substituted, namely :-

"(b) the licensing, inspection and regulation of aerodromes, the conditions under which aerodromes may be maintained and the prohibition or regulation of the use of unlicensed aerodromes;

"(ba) the fees which may be charged at those aerodromes to which the Airports Authority of India Act, 1994 does not apply or is not made applicable;"

55 of 1994.

(ii) after clause (g), the following clauses shall be inserted, namely :-

"(ga) the licensing of persons engaged in air traffic control;

"(gb) the certification, inspection and regulation of communication, navigation and surveillance or air traffic management facilities;

"(gc) the measures to safeguard civil aviation against acts of unlawful interference;"

Amendment of  
section 5A.

6. In section 5A of the principal Act, in sub-section (1), for the words, brackets, letters and figures "clause (b), (c), (e), (f), (g), (h) and (m) of sub-section (2) of section 5, to any person or persons engaged in aircraft operations or using any aerodrome", the words, brackets, letters and figures "Clause (aa), (b), (c), (e), (f), (g), (ga), (gb), (gc), (h), (i), (m) and (qq) of sub-section (2) of section 5, to any person or persons using any aerodrome or engaged in the aircraft operations, air traffic control, maintenance and operation of aerodrome, communication, navigation, surveillance and air traffic management facilities and safeguarding civil aviation against acts of unlawful interference" shall be substituted.

Amendment of  
section 7.

7. In section 7 of the principal Act,--

(a) in sub-section (1), for the portion beginning with the words "The Central Government", and ending with the words "of any accident", the word and figures "Subject to the provisions of section 14, the Central Government may, by notification in the Official Gazette, make rules providing for the investigation of any accident or incident" shall be substituted;

(b) in sub-section (2), for the words "accident" wherever it occurs, the words "accident or incident" shall be substituted.

Amendment of  
section 8.

8. In section 8 of the principal Act, in sub-section (2), for the words "The Central government", the words and figures "Subject to the provisions of section 14, the Central Government" shall be substituted.

Amendment of  
section 8A.

9. In section 8A of the principal Act, for the words "The Central Government", the words and figures "Subject to the provisions of section 14, the Central Government" shall be substituted.

10. In section 8C of the principal Act, for the words "The Central Government", the words and figures "Subject to the provisions of section 14, the Central Government" shall be substituted. **Amendment of section 8C.**

11. In section 10 of the principal Act,—

**Amendment of section 10.**

(i) in sub-section (1), for the word "fine", the words "fine which may extend to ten lakh rupees" shall be substituted;

(ii) in sub-section (1A), for the words "one year, or fine which may extend to two thousand rupees", the words "three years, or with fine which may extend to ten lakh rupees" shall be substituted;

(iii) in sub-section (2),—

(a) for the word and figure "section 7", the words and figures "section 4, section 7" shall be substituted;

(b) for the words "three months, or with fine which may extend to one thousand rupees", the words "two years, or with fine which may extend to ten lakh rupees" shall be substituted..

12. In section 11 of the principal Act, for the words "six months, or with fine which may extend to one thousand rupees", the words "two years, or with fine which may extend to ten lakh rupees" shall be substituted. **Amendment of section 11.**

13. In section 11A of the principal Act, for the words "six months", the words "two years" shall be substituted. **Amendment of section 11A.**

14. In section 11B of the principal Act,—

**Amendment of section 11B.**

(a) in sub-section (1), for the words "six months, or with fine which may extend to one thousand rupees", the words "two years, or with fine which may extend to ten lakh rupees" shall be substituted;

(b) in sub-section (2), the following proviso shall be inserted, namely:—

"Provided that the power to make rules under this sub-section shall be subject to the provisions of section 14."..

Sd/-

**Dr. K. N. CHATURVEDI,**  
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

**H. D. VYAS,**  
Secretary to Government.





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#### PART - VI

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#### LEGISLATIVE & PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 31<sup>st</sup> March, 2008.

No. RPB/4-2008/Act-45-07/E :-The following Act of Parliament is republished for general information :-

#### GOVERNMENT OF INDIA MINISTRY OF LAW AND JUSTICE

#### Legislative Department

New Delhi, the 13<sup>th</sup> December, 2007, Agrahayana 22, 1929 (Sake)

The following Act of Parliament has received the assent of the President on the 12<sup>th</sup> December, 2007, is hereby published for general information :-

#### THE PAYMENT OF BONUS (AMENDMENT) ACT, 2007 AN ACT

(Act No. 45 of 2007)

[12<sup>th</sup> December, 2007]

*further to amend the Payment of Bonus Act, 1965.*

Be it enacted by Parliament in the Fifty-eighth Year of the Republic of India as follows :-

1. (1) This Act may be called the Payment of Bonus (Amendment) Act, 2007.

(2) It shall be deemed to have come into force on the 1<sup>st</sup> day of April, 2006.

Short title  
and  
Commence-  
ment.

21 of 1965.

2. In section 2 of the Payment of Bonus Act, 1965 (hereinafter referred to as the principal Act), in clause (13), for the words "three thousand and five hundred rupees", the words "ten thousands rupees" shall be substituted.

Amendment  
of  
section 2.

3. In section 12 of the principal Act, for the words "two thousand and five hundred rupees", at both the places where they occur, the words "three thousand and five hundred rupees" shall respectively be substituted.

Amendment  
of  
section 12.



4. In section 32 of the principal Act, clause (vi) shall be omitted.

Amendment  
of  
section 32.

Ord. 8 of  
2007.

5. (1) The payment of Bonus (Amendment) Ordinance, 2007 is hereby repealed.

Ord. 8 of  
2007.

- (2) Notwithstanding such repeal of the Payment of bonus (Amendment) ordinance, 2007, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under the corresponding provisions of this Act.

Repeal and  
saving

Sd/-

**Dr. K. N. CHATURVEDI,**

Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

**H. D. VYAS,**

Secretary to Government.

Government Central Press, Gandhinagar.



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#### PART VI

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LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 31<sup>st</sup> March, 2008.

No. RPB/8-2008/Act 49-07/E:- The following Act of Parliament is republished for general information

#### GOVERNMENT OF INDIA MINISTRY OF LAW AND JUSTICE

Legislative Department

New Delhi, the 13<sup>th</sup> December, 2007/Agrahayana 22, 1929 (Sake)

The following Act of Parliament has received the assent of the President on the 12<sup>th</sup> December, 2007, is hereby published for general information :-

#### THE INDIAN BOILERS (AMENDMENT) ACT, 2007

An Act

(Act No. 49 of 2007)

[12<sup>th</sup> December, 2007]

*further to amend the Indian Boilers Act, 1923.*

BE it enacted by Parliament in the Fifty-eighth Year of the Republic of India as follows:—

1. (1) This Act may be called the Indian Boilers (Amendment) Act, 2007.

Short title,  
and  
commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint; and different dates may be appointed for different provisions of this Act.

5 of 1923.

2. In section 1 of the Indian Boilers Act, 1923 (hereinafter referred to as the principal Act), in sub-section (1), the word "Indian" shall be omitted.

Amendment  
of section 1.

3. In section 2 of the principal Act,—

Amendment  
of section 2.

(1) for clause (a), the following clause shall be substituted; namely:—

'(a) "accident" means an explosion of boiler, or boiler component, which is calculated to weaken the strength or an uncontrolled release of water or steam therefrom, liable to cause death or injury to any person or damage to any property;';

(2) for clause (b), the following clauses shall be substituted, namely:—

'(b) "boiler" means a pressure vessel in which steam is generated for use external to itself by application of heat which is wholly or partly under pressure when steam is shut off but does not include a pressure vessel,—

(i) with capacity less than 25 litres (such capacity being measured from the feed check valve to the main steam stop valve);

(ii) with less than one kilogram per centimetre square design gauge pressure and working gauge pressure; or

(iii) in which water is heated below one hundred degrees centigrade;

(ba) "boiler component" means steam piping, feed piping, economiser, superheater, any mounting or other fitting and any other external or internal part of a boiler which is subject to pressure exceeding one kilogram per centimetre square gauge;';

(3) after clause (c), the following clauses shall be inserted, namely:—

(ca) "Competent Authority" means an institution recognised in such manner as may be prescribed by regulations for issue of certificate to the welders for welding of boiler and boiler components;

(cb) "Competent Person" means a person recognised in such manner as may be prescribed by regulations for inspection and certification of boilers and boiler components during manufacture, erection and use. All Inspectors shall be *ipso facto* competent persons;';

(4) after clause (ccc), the following clauses shall be inserted, namely:—

(ccd) "Inspecting Authority" means an institution recognised in such manner as may be prescribed by regulations for the inspection and certification of boilers and boiler components during manufacture. All Chief Inspectors of Boilers shall be *ipso facto* Inspecting Authorities;

(cce) "manufacture" means manufacture, construction and fabrication of boiler or boiler component, or both;

(ccf) "manufacturer" means a person engaged in the manufacture;';

(5) in clause (d), for the words "includes any person", the words "includes any person possessing or" shall be substituted;

(6) for clause (f), the following clause shall be substituted, namely:—

'(f) "steam pipe" means any pipe through which steam passes if—

(i) the pressure at which steam passes through such pipe exceeds 3.5 kilogram per square centimetres above atmospheric pressure, or

(ii) such pipe exceeds 254 millimetres in internal diameter and the pressure of steam exceeds 1 kilogram per square centimetres above the atmospheric pressure.

and includes in either case any connected fitting of a steam-pipe;';

(7) for clause (g), the following clauses shall be substituted, namely:—

'(g) "structural alteration, addition or renewal" means,—

(i) any change in the design of a boiler or boiler component;

(ii) replacement of any part of boiler or boiler component by a part which does not conform to the same specification; or

(iii) any addition to any part of a boiler or boiler component;

(h) "superheater" means any equipment which is partly or wholly exposed to flue gases for the purpose of raising the temperature of steam beyond the saturation temperature at that pressure and includes a re-heater;

(i) "Technical Adviser" means the Technical Adviser appointed under sub-section (1) of section 4A.

4. For section 3 of the principal Act, the following section shall be substituted, namely:—

Substitution of new section for section 3. Limitation of application.

"3. Nothing in this Act shall apply to—

(a) locomotive boilers belonging to or under the control of the railways;

(b) any boiler or boiler component,—

(i) in any vessel propelled wholly or in part by the agency of steam;

(ii) belonging to, or under the control of, the Army, Navy or Air Force; or

(iii) appertaining to a sterilizer disinfector used in hospitals or nursing homes, if the boiler does not exceed one hundred litres in capacity."

5. After section 4 of the principal Act, the following sections shall be inserted, namely:—

Insertion of new sections 4A to 4F. Technical Adviser.

"4A. (1) The Central Government shall appoint a Technical Adviser from amongst the persons having such qualifications and experience as may be prescribed by rules.

(2) The terms and conditions of service of the Technical Adviser shall be such as may be prescribed by the Central Government.

(3) The Technical Adviser shall, in addition to exercising the powers and discharging the functions assigned to him under this Act or rules or regulations made thereunder, exercise such other powers and discharge such functions as the Central Government and the Board may delegate to him.

4B. (1) Any person who proposes to undertake any welding work connected with or related to a boiler, or a boiler component or both shall apply to a Competent Authority for issue of a Welders certificate.

Welders certificate.

(2) On receipt of an application under sub-section (1), the Competent Authority shall follow such procedure for examination and grant of Welders certificate as may be prescribed by regulations.

(3) The Competent Authority may, if satisfied that the person applying for Welders certificate under sub-section (2) has complied with the conditions precedent for issue of the Welders certificate, issue such certificate, to such person subject to the payment of such fee and such other conditions as may be prescribed by regulations:

Provided that the Competent Authority shall not refuse Welders certificate to any person unless such person is given an opportunity of being heard.

4C. (1) No person shall manufacture or cause to be manufactured any boiler or boiler component, or both unless—

Conditions precedent for manufacture of boiler and boiler component.

(a) he has provided in the premises or precincts wherein such boiler or boiler component, or both are manufactured, such facilities for design and construction as may be prescribed by regulations;



(b) the design and drawings of the boiler and boiler component have been approved by the Inspecting Authority under clause (a) of sub-section (2) of section 4D;

(c) the materials, mounting and fittings used in the construction of such boiler or boiler component, or both conform to the specifications prescribed by regulations; and

(d) the persons engaged for welding boiler or boiler component hold Welders certificate issued by a Competent Authority.

Inspection  
during  
manufacture.

4D. (1) Every manufacturer, before commencing manufacture of a boiler or boiler component, shall engage an Inspecting Authority for carrying out inspection at such stages of manufacture as may be prescribed by regulations.

(2) The Inspecting Authority engaged under sub-section (1) shall follow such procedure for inspection and certification of boiler or boiler component as may be prescribed by regulations and after inspection, if it is—

(a) satisfied that the boiler or the boiler component conforms to the standards prescribed by regulations, it shall issue a certificate of inspection and stamp the boiler, or boiler component, or both; or

(b) of the opinion that the boiler, or boiler component, or both does not conform to the standards prescribed by regulations, it may for reasons to be recorded in writing refuse to issue such certificate:

Provided that no certificate shall be refused unless the Inspecting Authority had directed the manufacturer of the boiler or boiler component, or both in writing to carry out such modifications or rectifications as it deems necessary and the Inspecting Authority is of the opinion that in spite of such direction the manufacturer of the boiler or boiler component, or both did not carry out the direction.

(3) The Inspecting Authority may, for the purposes of inspection under this section, charge such fee as may be prescribed by regulations.

Inspection  
during  
erection.

4E. (1) The owner who proposes to register a boiler under section 7, shall engage an Inspecting Authority for carrying out inspection at the stage of erection of the boiler.

(2) The Inspecting Authority shall follow such procedure for inspection and certification of a boiler or boiler component, or both as may be prescribed by regulations and after inspection, if it is—

(a) satisfied that the erection of the boiler is in accordance with the regulations, it shall issue a certificate of inspection in such form as may be prescribed by regulations; or

(b) of the opinion that the boiler has not been erected in accordance with the regulations; it may for reasons to be recorded in writing, refuse to grant the certificate and shall communicate such refusal to the manufacturer of the boiler or boiler component forthwith:

Provided that no such certificate shall be refused unless the Inspecting Authority had directed the owner in writing to carry out such modifications or rectifications as it deems necessary and the Inspecting Authority is of the opinion that in spite of such direction the owner did not carry out the direction.

(3) The Inspecting Authority may, for the purposes of inspection under this section, charge such fee as may be prescribed by regulations.

Conditions  
precedent for  
repairing  
boiler and  
boiler  
component.

4F. No person shall repair or cause to be repaired any boiler or boiler component or both, unless—

(a) he has provided in the premises or precincts, where in such boiler or boiler component or both are being used, such facilities for repairs as may be prescribed by regulations;

(b) the design and drawings of the boiler or boiler component, as the case may be, and the materials, mountings and fittings used in the repair of such boiler or boiler component conform to the regulations;

(c) persons engaged in welding, holds a Welders certificate issued by a Competent Authority;

(d) every user who does not have the in-house facilities for repair of boiler or boiler component shall engage a Boiler Repairer possessing a Boiler Repairer certificate for repair of a boiler or boiler component or both, as the case may be;

(e) every user shall engage a Competent Person for approval of repairs to be carried out in-house or by the repairers."

6. In section 5 of the principal Act, after sub-section (4), the following sub-section shall be inserted, namely:—

Amendment  
of section 5.

"(4A) No person shall be appointed as the Chief Inspector, Deputy Chief Inspector or Inspector unless he possesses such qualifications and experience as may be prescribed by the Central Government."

7. In section 6 of the principal Act, in clause (e), for the words "State Government" the words "Central Government" shall be substituted.

Amendment  
of section 6.

8. In section 7 of the principal Act,—

Amendment  
of section 7.

(a) in sub-section (1), for the words "may apply to the Inspector to have the boiler registered", the words "may apply to the Inspector along with such other documents as may be prescribed by regulations to have the boiler registered" shall be substituted;

(b) for sub-section (3), the following sub-section shall be substituted, namely:—

"(3) On the said date the Inspector shall inspect the boiler with a view to satisfying himself that the boiler has not suffered any damage during its transit from the place of manufacture to the site of erection and forward a report of the inspection along with the documents to the Chief Inspector within seven days."

9. In section 8 of the principal Act,—

Amendment  
of section 8.

(a) in sub-section (1),—

(i) in clause (c), for the figures "18.58", the figures "20" shall be substituted;

(ii) for clause (d), the following clause shall be substituted, namely:—

"(d) save as provided in section 12, when any structural alteration, addition or renewal is made in or to the boiler;"

(iii) in clause (f), for the words "it or any steam pipe", the words "it or any boiler component" shall be substituted;

(b) for sub-section (3), the following sub-section shall be substituted, namely:—

"(3) When a certificate ceases to be in force, the owner of the boiler may apply to the Competent Person for renewal thereof for such period as may be prescribed by regulations."

(c) for sub-sections (4) and (5), the following sub-sections shall be substituted, namely:—

"(4) On receipt of an application under sub-section (3), the Competent Person shall, within fifteen days from the date of such receipt, inspect the boiler in such manner as may be prescribed by regulations.

(5) If the Competent Person is—

(a) satisfied that the boiler and the boiler components attached thereto are in good condition he shall issue a certificate for such period as may be prescribed by regulations.

(b) of the opinion that the boiler or boiler component, or both does not conform to the standards prescribed by regulations, it may, for reasons to be recorded in writing, refuse to issue such certificate:

Provided that no certificate shall be refused unless the Inspecting Authority had directed the owner of the boiler or the boiler component, or both in writing to carry out such modifications or rectifications as it deems necessary and the Competent Person is of the opinion that in spite of such direction the owner of the boiler or boiler component, or both did not carry out the direction:

Provided further that the Competent Person shall, within forty-eight hours of making the examination, inform the owner of the boiler or boiler component any defect in his opinion and the reasons therefor and shall forthwith report the case to the Chief Inspector.

(6) The Competent Person may for the purpose of inspection under this section charge such fee as may be prescribed by regulations."

Amendment  
of section 9.

10. In section 9 of the principal Act, the words, brackets and figures "or sub-section (5) of section 8" shall be omitted.

Amendment  
of section 11.

11. In section 11 of the principal Act,—

(a) in clause (c), for the words "State Government", the words "Central Government" shall be substituted;

(b) clause (d) and the proviso shall be omitted.

Amendment  
of section 12.

12. In section 12 of the principal Act, the following proviso shall be inserted at the end, namely:—

"Provided that no such sanction is required where the structural alteration, addition or renewal is made under the supervision of a Competent Person."

Substitution of  
new section  
for section 13.  
Alteration or  
renewal of  
boiler  
component.

13. For section 13 of the principal Act, the following section shall be substituted, namely:—

"13. (1) Before the owner of any boiler registered under this Act makes any structural alteration, addition or renewal in or to any boiler component attached to the boiler, he shall transmit to the Chief Inspector a report in writing of his intention and send therewith such particulars of proposed alteration, addition or renewal as may be prescribed by regulations.

(2) Any structural alteration, addition or renewal referred to in sub-section (1) shall be made by a person possessing a Boiler Repairer certificate under the supervision of the Competent Person."

Amendment  
of section 14.

14. In section 14 of the principal Act,—

(a) in sub-section (1),—

(i) in clause (a), for the word "Inspector", the words "Competent Person" shall be substituted;

(ii) in clause (b), for the words, "prescribed manner", the words "manner prescribed by regulations" shall be substituted;

(iii) in clause (c), for the words "be prescribed", the words "be prescribed by regulations" shall be substituted;

(b) in sub-section (2), for the word "Inspector", the words "Competent Person" shall be substituted.

12 of 1911.  
63 of 1948.

15. In section 15 of the principal Act, for the words and figures "the Indian Factories Act, 1911", the words and figures "the Factories Act, 1948" shall be substituted. Amendment of section 15.

16. In section 18 of the principal Act,—

(a) in sub-section (1), for the word "steam-pipe", at both the places where it occurs, the words "boiler component" shall be substituted;

Amendment of section 18.

(b) after sub-section (2), the following sub-section shall be inserted, namely:—

"(3) Without prejudice to the provisions of sub-section (1), where any death has resulted due to any accident, an inquiry may be conducted by such person and in such manner as may be prescribed by the Central Government."

17. Section 19 of the principal Act shall be renumbered as sub-section (1) thereof and after sub-section (1) as so renumbered, the following sub-section shall be inserted, namely:— Amendment of section 19.

"(2) Every appeal under sub-section (1) shall be made in such manner as may be prescribed by the State Government.

(3) The procedure for disposing of an appeal shall be such as may be prescribed by the State Government."

18. Section 20 of the principal Act shall be renumbered as sub-section (1) and—

Amendment of section 20.

(a) in sub-section (1) as so renumbered, for the words "lodge, with the Chief Inspector an appeal to an Appellate Authority to be constituted by the State Government under this Act", the words "prefer an appeal to the Central Government" shall be substituted;

(b) after sub-section (1) as so renumbered, the following sub-sections shall be inserted, namely:—

"(2) Any person considering himself aggrieved by the refusal of an Inspecting Authority to grant a certificate of inspection of manufacture or erection, as the case may be, may within thirty days from the date of communication of such refusal, prefer an appeal to the Central Government.

(3) Every appeal under sub-section (1) shall be made in such manner as may be prescribed by the Central Government.

(4) The procedure for disposing of an appeal shall be such as may be prescribed by the Central Government."

19. In section 21 of the principal Act, for the words, figures and letters "An order of the Central Government under section 20A and save as otherwise provided in sections 19, 20 and 20A, an order of an appellate authority", the words, figures and letter "An order of the Central Government under sections 20 and 20A," shall be substituted. Amendment of section 21.

20. In section 22 of the principal Act, for the words "one hundred rupees", the words "five thousand rupees" shall be substituted. Amendment of section 22.

21. In section 23 of the principal Act,—

Amendment of section 23.

(a) for the words "five hundred rupees", the words "one lakh rupees" shall be substituted;

(b) for the words "one hundred rupees", the words "one thousand rupees" shall be substituted.

22. In section 24 of the principal Act, for the words "punishable with fine which may extend to five hundred rupees", the words "punishable with imprisonment which may extend Amendment of section 24.



to two years or with fine which may extend to one lakh rupees, or with both" shall be substituted.

Amendment  
of section 25.

23. In section 25 of the principal Act,—

(a) in sub-section (1), for the words "five hundred rupees", the words "one lakh rupees" shall be substituted;

(b) in sub-section (2), for the words "fine, or with both", the words "fine which may extend to one lakh rupees or with both" shall be substituted.

Amendment  
of section  
27A.

24. In section 27A of the principal Act, for sub-sections (2) and (3), the following sub-sections shall be substituted, namely:—

"(2) The Board shall consist of the following members, namely:—

(a) the Secretary to the Government of India incharge of the Department of the Central Government having administrative control of the Board who shall be the Chairperson *ex officio*;

(b) a senior technical officer conversant with the inspection and examination of boilers, to be nominated by the Government of each State (other than a Union territory);

(c) equal number of other persons, as in sub-section (b) above to represent—

(i) Central Government,

(ii) the Bureau of Indian Standards,

(iii) boiler and boiler component manufacturers,

(iv) National laboratories,

(v) engineering consultancy agencies,

(vi) users of boilers, and

(vii) such other interests which in the opinion of the Central Government ought to be represented on the Board,

to be nominated by the Central Government;

(d) Technical Adviser, Member-Secretary *ex officio*.

(3) The term of office of the members nominated under clauses (b) and (c) of sub-section (2) shall be such as may be prescribed by the Central Government."

Amendment  
of section 28.

25. In section 28 of the principal Act, in sub-section (1),—

(i) for clause (a), the following clause shall be substituted, namely:—

"(a) for laying down the standard conditions in respect of material, design, construction, erection, operation and maintenance which shall be required for the purposes of enabling the registration and certification of boilers, boiler components, boiler mountings and fittings under this Act;"

(ii) in clause (d), for the word "steam-pipes", the words "boiler components, boiler mountings and fittings" shall be substituted;

(iii) after clause (e), the following clauses shall be inserted, namely:—

"(ea) for prescribing the qualifications and experience subject to which the Inspecting Authorities, Competent Authorities and Competent Persons shall be recognised under this Act;

(eb) the conditions subject to which and the manner in which manufacturer of boiler components or material may be recognised;

(ec) facilities for design and construction which are required to be provided in the premises in which the manufacturing of any boiler or boiler component is carried out;

(ed) fee for the purposes of inspection or grant of recognition or any certificate under this Act;

(ef) procedure for examination and grant of Welders certificate;

(eg) powers and functions which the Board may delegate to the Technical Adviser;

(eh) documents to be enclosed along with the application for registration of boilers or renewal of a certificate authorising the use of boilers;

(ei) the manner of inspection of boilers;

(ej) the period for which a certificate authorising the use of a boiler may be renewed;

(ek) the conditions subject to which and the form in which Competent Person shall renew a certificate authorising the use of boilers;

(el) the manner and the form in which a Repairer's certificate shall be issued;

(em) the manner in which the boilers shall be prepared for examination;

(en) drawings, specification, documents and other particulars which owner of a boiler is required to make available to the Competent Person;

(eo) the manner in which a person may be authorised to conduct energy audit and the manner in which such audit shall be conducted;

(ep) the manner in which disputes between the States with respect to registration of boilers shall be resolved."

26. In section 28A of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:—

Amendment of section 28A.

"(1) The Central Government may, by notification in the Official Gazette, make rules to carry out the provisions of this Act.

(1A) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the procedure to be followed in making applications under section 20A and the fees payable in respect of such application;

(b) the qualifications and experience of persons to be appointed as Chief Inspectors, Deputy Chief Inspectors and Inspectors;

(c) the manner in which appeals may be preferred to the Board, the fees payable in respect of appeals and the procedure to be followed of disposing such appeals;

(d) the term of office of the members and the manner in which they shall be nominated under clauses (b) and (c) of sub-section (2) of section 27A;

(e) the qualifications and experience of the Technical Adviser;

(f) for requiring boilers to be under the charge of persons holding certificate of proficiency or competency and for prescribing the conditions on which such certificate may be granted;

(g) the manner in which and the person who shall conduct inquiry into the accident."

Amendment  
of section 29.

27. In section 29 of the principal Act, in sub-section (1),—

(i) for clause (a), the following clause shall be substituted, namely:—

"(a) the powers and duties of the Chief Inspector, Deputy Chief Inspectors and Inspectors;"

(ii) clause (d) shall be omitted;

(iii) for clause (f), the following clause shall be substituted, namely:—

"(f) fee payable for registration of boilers;"

(iv) for clause (h), the following clause shall be substituted, namely:—

"(h) the manner in which appeals shall be preferred to the Chief Inspector and the procedure to be followed for hearing such appeals;"

(v) clause (j) shall be omitted.

Amendment  
of section 30.

28. In section 30 of the principal Act,—

(a) for the words "one hundred rupees", the words "one thousand rupees" shall be substituted;

(b) for the words "one thousand rupees", the words "one lakh rupees" shall be substituted;

Amendment  
of section 33.

29. In section 33 of the principal Act, for the word "steam-pipes", the words "boiler components" shall be substituted.

Amendment  
of section 34.

30. In section 34 of the principal Act, for sub-section (3), the following sub-section shall be substituted, namely:—

"(3) If the State Government is satisfied that having regard to the material, design or construction of boilers and to the need for the rapid industrialisation of the country, it is necessary so to do, it may, by notification in the Official Gazette and subject to such conditions as may be prescribed by regulations, exempt any boiler or boiler components in the whole or any part of the State from the operation of all or any of the provisions of this Act."

Sd/-

**Dr. K. N. CHATURVEDI,**  
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

**H. D. VYAS,**  
Secretary to Government



सत्यमेव जयते

# The Gujarat Government Gazette

EXTRAORDINARY

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Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

## PART VI

Acts of Parliament and Ordinances Promulgated by the President.

### LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 31<sup>st</sup> March, 2008.

No. RPB/10-2008/Act-51--07/E:-The following Act of Parliament is republished for General information:-  
GOVERNMENT OF INDIA

### MINISTRY OF LAW AND JUSTICE

#### Legislative Department

New Delhi, the 20<sup>th</sup> December, 2007, Agrahayana 29, 1929 (Sake)

The following Act of Parliament has received the assent of the President on the 20<sup>th</sup> December, 2007, is hereby published for general information:-

### THE PAYMENT AND SETTLEMENT SYSTEMS ACT, 2007

#### AN ACT

(Act No. 51 of 2007)

[20<sup>th</sup> December, 2007]

*to provide for the regulation and supervision of payment systems in India and to designate the Reserve Bank of India as the authority for that purpose and for matters connected therewith or incidental thereto.*

BE it enacted by Parliament in the Fifty-eighth Year of the Republic of India as follows:—

#### CHAPTER I PRELIMINARY

1. (1) This Act may be called the Payment and Settlement Systems Act, 2007.
- (2) It extends to the whole of India.
- (3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of this Act, and any reference to the commencement in any such provision of this Act shall be construed as a reference to the commencement of that provision.

Short title,  
extent and  
commencement.



## Definitions.

## 2. (1) In this Act, unless the context otherwise requires,—

(a) “bank” means,—

(i) a bank included in the Second Schedule to the Reserve Bank of India Act, 1934;

2 of 1934.

(ii) a post office savings bank;

(iii) a banking company as defined in clause (c) of section 5, of the Banking Regulation Act, 1949;

10 of 1949.

(iv) a co-operative bank as defined in clause (cci) of section 5, as inserted by section 56, of the Banking Regulation Act, 1949; and

10 of 1949.

(v) such other bank as the Reserve Bank may, by notification, specify for the purposes of this Act;

(b) “derivative” means an instrument, to be settled at a future date, whose value is derived from change in interest rate, foreign exchange rate, credit rating or credit index, price of securities (also called “underlying”), or any other underlying, or a combination of more than one of them and includes interest rate swaps, forward rate agreements, foreign currency swaps, foreign currency rupee swaps, foreign currency options, foreign currency rupee options or any other instrument, as may be specified by the Reserve Bank from time to time;

(c) “electronic funds transfer” means any transfer of funds which is initiated by a person by way of instruction, authorisation or order to a bank to debit or credit an account maintained with that bank through electronic means and includes point of sale transfers, automated teller machine transactions, direct deposits or withdrawal of funds, transfers initiated by telephone, internet and card payment;

(d) “gross” settlement system means a payment system in which each settlement of funds or securities occurs on the basis of separate or individual instructions;

(e) “netting” means the determination by the system provider of the amount of money or securities, due or payable or deliverable, as a result of setting off or adjusting, the payment obligations or delivery obligations among the system participants, including the claims and obligations arising out of the termination by the system provider, on the insolvency or dissolution or winding up of any system participant or such other circumstances as the system provider may specify in its rules or regulations or bye-laws (by whatever name called), of the transactions admitted for settlement at a future date so that only a net claim be demanded or a net obligation be owned;

(f) “notification” means a notification published in the Official Gazette;

(g) “payment instruction” means any instrument, authorisation or order in any form, including electronic means, to effect a payment,—

(i) by a person to a system participant; or

(ii) by a system participant to another system participant;

(h) “payment obligation” means an indebtedness that is owned by one system participant to another system participant as a result of clearing or settlement of one or more payment instructions relating to funds, securities or foreign exchange or derivatives or other transactions;

(i) “payment system” means a system that enables payment to be effected between a payer and a beneficiary, involving clearing, payment or settlement service or all of them, but does not include a stock exchange;

*Explanation.*— For the purposes of this clause, “payment system” includes the systems enabling credit card operations, debit card operations, smart card operations, money transfer operations or similar operations;

(j) “prescribed” means prescribed by regulations made under this Act;

(k) “regulation” means a regulation made under this Act;

(l) “Reserve Bank” means the Reserve Bank of India, constituted under the Reserve Bank of India Act, 1934;

2 of 1934.

18 of 1944.

(m) "securities" means the Government securities as defined in the Public Debt Act, 1944 or such other securities as may be notified by the Central Government from time to time under that Act;

(n) "settlement" means settlement of payment instructions and includes the settlement of securities, foreign exchange or derivatives or other transactions which involve payment obligations;

(o) "systemic risk" means the risk arising from—

(i) the inability of a system participant to meet his payment obligations under the payment system as and when they become due; or

(ii) any disruption in the system,

which may cause other participants to fail to meet their obligations when due and is likely to have an impact on the stability of the system:

Provided that if any doubt or difference arises as to whether a particular risk is likely to have an impact on the stability of the system, the decision of the Reserve Bank shall be final;

(p) "system participant" means a bank or any other person participating in a payment system and includes the system provider;

(q) "system provider" means a person who operates an authorised payment system.

2 of 1934.  
10 of 1949.

(2) Words and expressions used, but not defined in this Act and defined in the Reserve Bank of India Act, 1934 or the Banking Regulation Act, 1949, shall have the meanings respectively assigned to them in those Acts.

## CHAPTER II

### DESIGNATED AUTHORITY AND ITS COMMITTEE

3. (1) The Reserve Bank shall be the designated authority for the regulation and supervision of payment systems under this Act.

Designated  
authority and  
its Committee.

(2) The Reserve Bank may, for the purposes of exercising the powers and performing the functions and discharging the duties conferred on it by or under this Act, by regulation, constitute a committee of its Central Board to be known as the Board for Regulation and Supervision of Payment and Settlement Systems.

(3) The Board constituted under sub-section (2) shall consist of the following members, namely:—

(a) Governor, Reserve Bank, who shall be the Chairperson of the Board;

(b) Deputy Governors, Reserve Bank, out of whom the Deputy Governor who is in-charge of the Payment and Settlement Systems, shall be the Vice-Chairperson of the Board;

(c) Not exceeding three Directors from the Central Board of the Reserve Bank of India to be nominated by the Governor, Reserve Bank.

(4) The powers and functions of the Board constituted under sub-section (2), the time and venue of its meetings, the procedure to be followed in such meetings, (including the quorum at such meetings) and other matters incidental thereto shall be such as may be prescribed.

(5) The Board for Regulation and Supervision of Payment and Settlement Systems constituted under clause (i) of sub-section (2) of section 58 of the Reserve Bank of India Act, 1934 shall be deemed to be the Board constituted under this section and continue accordingly until the Board is reconstituted in accordance with the provisions of this Act and shall be governed by the rules and regulations made under the Reserve Bank of India Act, 1934 in so far as they are not inconsistent with the provisions of this Act.

2 of 1934.

## CHAPTER III

## AUTHORISATION OF PAYMENT SYSTEMS

Payment system not to operate without authorisation.

4. (1) No person, other than the Reserve Bank, shall commence or operate a payment system except under and in accordance with an authorisation issued by the Reserve Bank under the provisions of this Act:

Provided that nothing contained in this section shall apply to—

(a) the continued operation of an existing payment system on commencement of this Act for a period not exceeding six months from such commencement, unless within such period, the operator of such payment system obtains an authorisation under this Act or the application for authorisation made under section 7 of this Act is refused by the Reserve Bank;

(b) any person acting as the duly appointed agent of another person to whom the payment is due;

(c) a company accepting payments either from its holding company or any of its subsidiary companies or from any other company which is also a subsidiary of the same holding company;

(d) any other person whom the Reserve Bank may, after considering the interests of monetary policy or efficient operation of payment systems, the size of any payment system or for any other reason, by notification, exempt from the provisions of this section.

(2) The Reserve Bank may, under sub-section (1) of this section, authorise a company or corporation to operate or regulate the existing clearing houses or new clearing houses of banks in order to have a common retail clearing house system for the banks throughout the country:

Provided, however, that not less than fifty-one per cent. of the equity of such company or corporation shall be held by public sector banks.

*Explanation.*— For the purposes of this clause, “public sector banks” shall include a “corresponding new bank”, “State Bank of India” and “subsidiary bank” as defined in section 5 of the Banking Regulation Act, 1949.

10 of 1949.

Application for authorisation.

5. (1) Any person desirous of commencing or carrying on a payment system may apply to the Reserve Bank for an authorisation under this Act.

(2) An application under sub-section (1) shall be made in such form and in such manner and shall be accompanied by such fees as may be prescribed.

Inquiry by the Reserve Bank.

6. After the receipt of an application under section 5, and before an authorisation is issued under this Act, the Reserve Bank may make such inquiries as it may consider necessary for the purpose of satisfying itself about the genuineness of the particulars furnished by the applicant; his capacity to operate the payment system, the credentials of the participants or for any other reason and when such an inquiry is conducted by any person authorised by it in this behalf, it may require a report from such person in respect of the inquiry.

Issue or refusal of authorisation.

7. (1) The Reserve Bank may, if satisfied, after any inquiry under section 6 or otherwise, that the application is complete in all respects and that it conforms to the provisions of this Act and the regulations issue an authorisation for operating the payment system under this Act having regard to the following considerations, namely:—

(i) the need for the proposed payment system or the services proposed to be undertaken by it;

(ii) the technical standards or the design of the proposed payment system;

(iii) the terms and conditions of operation of the proposed payment system including any security procedure;

(iv) the manner in which transfer of funds may be effected within the payment system;

(v) the procedure for netting of payment instructions effecting the payment obligations under the payment system;

- (vi) the financial status, experience of management and integrity of the applicant;
- (vii) interests of consumers, including the terms and conditions governing their relationship with payment system providers;
- (viii) monetary and credit policies; and
- (ix) such other factors as may be considered relevant by the Reserve Bank.

(2) An authorisation issued under sub-section (1) shall be in such form as may be prescribed and shall—

- (a) state the date on which it takes effect;
- (b) state the conditions subject to which the authorisation shall be in force;
- (c) indicate the payment of fees, if any, to be paid for the authorisation to be in force;
- (d) if it considers necessary, require the applicant to furnish such security for the proper conduct of the payment system under the provisions of this Act;
- (e) continue to be in force till the authorisation is revoked.

(3) Where the Reserve Bank considers that the application for authorisation should be refused, it shall give the applicant a written notice to that effect stating the reasons for the refusal:

Provided that no such application shall be refused unless the applicant is given a reasonable opportunity of being heard.

(4) Every application for authorisation shall be processed by the Reserve Bank as soon as possible and an endeavour shall be made to dispose of such application within six months from the date of filing of such application.

8. (1) If a system provider,—

- (i) contravenes any provisions of this Act, or
- (ii) does not comply with the regulations, or
- (iii) fails to comply with the orders or directions issued by the designated authority, or
- (iv) operates the payment system contrary to the conditions subject to which the authorisation was issued,

the Reserve Bank may, by order, revoke the authorisation given to such system provider under this Act:

Provided that no order of revocation under sub-section (1) shall be made—

- (i) except after giving the system provider a reasonable opportunity of being heard; and
- (ii) without prejudice to the direction of the Reserve Bank to the system provider that the operation of the payment system shall not be carried out till the order of revocation is issued.

(2) Nothing contained in sub-section (1) shall apply to a case where the Reserve Bank considers it necessary to revoke the authorisation given to a payment system in the interest of the monetary policy of the country or for any other reasons to be specified by it in the order.

(3) The order of revocation issued under sub-section (1) shall include necessary provisions to protect and safeguard the interests of persons affected by such order of revocation.

(4) Where a system provider becomes insolvent or dissolved or wound up, such system provider shall inform that fact to the Reserve Bank and thereupon the Reserve Bank shall take such steps as deemed necessary to revoke the authorisation issued to such system provider to operate the payment system.

Revocation of  
authorisation.



Appeal to  
the Central  
Government.

9. (1) Any applicant for an authorisation whose application for the operation of the payment system is refused under sub-section (3) of section 7 or a system provider who is aggrieved by an order of revocation under section 8 may, within thirty days from the date on which the order is communicated to him, appeal to the Central Government.

(2) The Central Government shall endeavour to dispose of an appeal under sub-section (1) within a period of three months.

(3) The decision of the Central Government on the appeal under sub-section (1) shall be final.

#### CHAPTER IV

##### REGULATION AND SUPERVISION BY THE RESERVE BANK

Power to  
determine  
standards.

10. (1) The Reserve Bank may, from time to time, prescribe—

- (a) the format of payment instructions and the size and shape of such instructions;
- (b) the timings to be maintained by payment systems;
- (c) the manner of transfer of funds within the payment system, either through paper, electronic means or in any other manner, between banks or between banks and other system participants;
- (d) such other standards to be complied with the payment systems generally;
- (e) the criteria for membership of payment systems including continuation, termination and rejection of membership;
- (f) the conditions subject to which the system participants shall participate in such fund transfers and the rights and obligations of the system participants in such funds.

(2) Without prejudice to the provisions of sub-section (1), the Reserve Bank may, from time to time, issue such guidelines, as it may consider necessary for the proper and efficient management of the payment systems generally or with reference to any particular payment system.

Notice of  
change in  
the payment  
system.

11. (1) No system provider shall cause any change in the system which would affect the structure or the operation of the payment system without—

- (a) the prior approval of the Reserve Bank; and
- (b) giving notice of not less than thirty days to the system participants after the approval of the Reserve Bank.

Provided that in the interest of monetary policy of the country or in public interest, the Reserve Bank may permit the system provider to make any changes in a payment system without giving notice to the system participants under clause (b) or requiring the system provider to give notice for a period longer than thirty days.

(2) Where the Reserve Bank has any objection, to the proposed change for any reason, it shall communicate such objection to the systems provider within two weeks of receipt of the intimation of the proposed changes from the system provider.

(3) The system provider shall, within a period of two weeks of the receipt of the objections from the Reserve Bank forward his comments to the Reserve Bank and the proposed changes may be effected only after the receipt of approval from the Reserve Bank.

Power to call  
for returns,  
documents  
or other  
information.

12. The Reserve Bank may call for from any system provider such returns or documents as it may require or other information in regard to the operation of his payment system at such intervals, in such form and in such manner, as the Reserve Bank may require from time to time or as may be prescribed and such order shall be complied with.

Access to  
information.

13. The Reserve Bank shall have right to access any information relating to the operation of any payment system and system provider and all the system participants shall provide access to such information to the Reserve Bank.

14. Any officer of the Reserve Bank duly authorised by it in writing in this behalf, may for ensuing compliance with the provisions of this Act or any regulations, enter any premises where a payment system is being operated and may inspect any equipment, including any computer system or other documents situated at such premises and call upon any employee of such system provider or participant thereof or any other person working in such premises to furnish such information or documents as may be required by such officer.

Power to enter and inspect.

15. (1) Subject to the provisions of sub-section (2), any document or information obtained by the Reserve Bank under sections 12 to 14 (both inclusive) shall be kept confidential.

Information, etc., to be confidential.

(2) Notwithstanding anything contained in sub-section (1), the Reserve Bank may disclose any document or information obtained by it under sections 12 to 14 (both inclusive) to any person to whom the disclosure of such document or information is considered necessary for protecting the integrity, effectiveness or security of the payment system, or in the interest of banking or monetary policy or the operation of the payment systems generally or in the public interest.

16. The Reserve Bank may, for the purpose of carrying out its functions under this Act, conduct or get conducted audits and inspections of a payment system or participants thereof and it shall be the duty of the system provider and the system participants to assist the Reserve Bank to carry out such audit or inspection, as the case may be.

Power to carry out audit and inspection.

17. Where the Reserve Bank is of the opinion that,—

Power to issue directions.

(a) a payment system or a system participant is engaging in, or is about to engage in, any act, omission or course of conduct that results, or is likely to result, in systemic risk being inadequately controlled; or

(b) any action under clause (a) is likely to affect the payment system, the monetary policy or the credit policy of the country,

the Reserve Bank may issue directions in writing to such payment system or system participant requiring it, within such time as the Reserve Bank may specify—

(i) to cease and desist from engaging in the act, omission or course of conduct or to ensure the system participants to cease and desist from the act, omission or course of conduct; or

(ii) to perform such acts as may be necessary, in the opinion of the Reserve Bank, to remedy the situation.

18. Without prejudice to the provisions of the foregoing, the Reserve Bank may, if it is satisfied that for the purpose of enabling it to regulate the payment systems or in the interest of management or operation of any of the payment systems or in public interest, it is necessary so to do, lay down policies relating to the regulation of payment systems including electronic, non-electronic, domestic and international payment systems affecting domestic transactions and give such directions in writing as it may consider necessary to system providers or the system participants or any other person either generally or to any such agency and in particular, pertaining to the conduct of business relating to payment systems.

Power of Reserve Bank to give directions generally.

19. Every person to whom a direction has been issued by the Reserve Bank under this Act shall comply with such direction without any delay and a report of compliance shall be furnished to the Reserve Bank within the time allowed by it.

Directions of Reserve Bank to be complied with.

## CHAPTER V

### RIGHTS AND DUTIES OF A SYSTEM PROVIDER

20. Every system provider shall operate the payment system in accordance with the provisions of this Act, the regulations, the contract governing the relationship among the system participants, the rules and regulations which deal with the operation of the payment system and the conditions subject to which the authorisation is issued, and the directions given by the Reserve Bank from time to time.

System provider to act in accordance with the Act, regulations, etc.

Duties of a  
system  
provider.

21. (1) Every system provider shall disclose to the existing or potential system participants, the terms and conditions including the charges and the limitations of liability under the payment system, supply them with copies of the rules and regulations governing the operation of the payment system, netting arrangements and other relevant documents.

(2) It shall be the duty of every system provider to maintain the standards determined under this Act.

Duty to keep  
documents in  
the payment  
system confi-  
dential.

22. (1) A system provider shall not disclose to any other person the existence or contents of any document or part thereof or other information given to him by a system participant, except where such disclosure is required under the provisions of this Act or the disclosure is made with the express or implied consent of the system participant concerned or where such disclosure is in obedience to the orders passed by a court of competent jurisdiction or a statutory authority in exercise of the powers conferred by a statute.

(2) The provisions of the Bankers' Book Evidence Act, 1891 shall apply in relation to the information or documents, or other books in whatever form maintained by the system provider. 18 of 1991.

Settlement and  
netting.

23. (1) The payment obligations and settlement instructions among the system participants shall be determined in accordance with the gross or netting procedure, as the case may be, approved by the Reserve Bank while issuing authorisation to a payment system.

(2) Where the rules providing for the operation of a payment system indicates a procedure for the distribution of losses between the system participants and the payment system, such procedure shall have effect notwithstanding anything to the contrary contained in any other law for the time being in force.

(3) A settlement effected under such procedure shall be final and irrevocable.

(4) Where a system participant is declared by a court of competent jurisdiction as insolvent or is dissolved or wound up, then notwithstanding anything contained in the Companies Act, 1956 or the Banking Regulation Act, 1949 or any other law for the time being in force, the order of adjudication or dissolution or winding up, as the case may be, shall not affect any settlement that has become final and irrevocable and the right of the system provider to appropriate any collaterals contributed by the system participant towards its settlement or other obligations in accordance with the rules, regulations or bye-laws of such system provider. 1 of 1956.  
10 of 1949.

*Explanation.*—For the removal of doubts, it is hereby declared that the settlement, whether gross or net, referred to in this section is final and irrevocable as soon as the money, securities, foreign exchange or derivatives or other transactions payable as a result of such settlement is determined, whether or not such money, securities or foreign exchange or derivatives or other transactions is actually paid.

## CHAPTER VI

### SETTLEMENT OF DISPUTES

Settlement of  
disputes.

24. (1) The system provider shall make provision in its rules or regulations for creation of panel consisting of not less than three system participants other than the system participants who are parties to the dispute to decide the disputes between system participants in respect of any matter connected with the operation of the payment system.

(2) Where any dispute in respect of any matter connected with the operation of the payment system arises between two or more system participants, the system provider shall refer the dispute to the panel referred to in sub-section (1).

(3) Where any dispute arises between any system participant and the system provider or between system providers or where any of the system participants is not satisfied with the decision of the panel referred to in sub-section (1), the dispute shall be referred to the Reserve Bank.



(4) The dispute referred to the Reserve Bank for adjudication under sub-section (3) shall be disposed of by an officer of the Reserve Bank generally or specially authorised in this behalf and the decision of the Reserve Bank shall be final and binding.

(5) Where a dispute arises between the Reserve Bank, while acting in its capacity as system provider or as system participant, and another system provider or system participant, the matter shall be referred to the Central Government which may authorise an officer not below the rank of Joint Secretary for settlement of the dispute and the decision of such officer shall be final.

25. (1) Where an electronic funds transfer initiated by a person from an account maintained by him cannot be executed on the ground that the amount of money standing to the credit of that account is insufficient to honour the transfer instruction or that it exceeds the amount arranged to be paid from that account by an agreement made with a bank, such person shall be deemed to have committed an offence and shall, without prejudice to any other provisions of this Act, be punished with imprisonment for a term which may extend to two years, or with fine which may extend to twice the amount of the electronic funds transfer, or with both:

Dishonour of electronic funds transfer for insufficiency, etc., of funds in the account.

Provided that nothing contained in this section shall apply unless—

(a) the electronic funds transfer was initiated for payment of any amount of money to another person for the discharge, in whole or in part, of any debt or other liability;

(b) the electronic funds transfer was initiated in accordance with the relevant procedural guidelines issued by the system provider;

(c) the beneficiary makes a demand for the payment of the said amount of money by giving a notice in writing to the person initiating the electronic funds transfer within thirty days of the receipt of information by him from the bank concerned regarding the dishonour of the electronic funds transfer; and

(d) the person initiating the electronic funds transfer fails to make the payment of the said money to the beneficiary within fifteen days of the receipt of the said notice.

(2) It shall be presumed, unless the contrary is proved, that the electronic funds transfer was initiated for the discharge, in whole or in part, of any debt or other liability.

(3) It shall not be a defence in a prosecution for an offence under sub-section (1) that the person, who initiated the electronic funds transfer through an instruction, authorisation, order or agreement, did not have reason to believe at the time of such instruction, authorisation, order or agreement that the credit of his account is insufficient to effect the electronic funds transfer.

(4) The Court shall, in respect of every proceeding under this section, on production of a communication from the bank denoting the dishonour of electronic funds transfer, presume the fact of dishonour of such electronic funds transfer, unless and until such fact is disproved.

(5) The provisions of Chapter XVII of the Negotiable Instruments Act, 1881 shall apply to the dishonour of electronic funds transfer to the extent the circumstances admit.

*Explanation.*— For the purposes of this section, “debt or other liability” means a legally enforceable debt or other liability, as the case may be.



## CHAPTER VII

## OFFENCES AND PENALTIES

## Penalties.

26. (1) Where a person contravenes the provisions of section 4 or fails to comply with the terms and conditions subject to which the authorisation has been issued under section 7, he shall be punishable with imprisonment for a term which shall not be less than one month but which may extend to ten years or with fine which may extend to one crore rupees or with both and with a further fine which may extend to one lakh rupees for every day, after the first during which the contravention or failure to comply continues.

(2) Whoever in any application for authorisation or in any return or other document or on any information required to be furnished by or under, or for the purpose of, any provision of this Act, wilfully makes a statement which is false in any material particular, knowing it to be false or wilfully omits to make a material statement, shall be punishable with imprisonment for a term which may extend to three years and shall also be liable to fine which shall not be less than ten lakh rupees and which may extend to fifty lakh rupees.

(3) If any person fails to produce any statement, information, returns or other documents, or to furnish any statement, information, returns or other documents, which under section 12 or under section 13, it is his duty to furnish or to answer any question relating to the operation of a payment system which is required by an officer making inspection under section 14, he shall be punishable with fine which may extend to ten lakh rupees in respect of each offence and if he persists in such refusal, to a further fine which may extend to twenty-five thousand rupees for every day for which the offence continues.

(4) If any person discloses any information, the disclosure of which is prohibited under section 22, he shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five lakh rupees or an amount equal to twice the amount of the damages incurred by the act of such disclosure, whichever is higher or with both.

(5) Where a direction issued under this Act is not complied with within the period stipulated by the Reserve Bank or where no such period is stipulated, within a reasonable time or where the penalty imposed by the Reserve Bank under section 30 is not paid within a period of thirty days from the date of the order, the system provider or the system participant which has failed to comply with the direction or to pay the penalty shall be punishable with imprisonment for a term which shall not be less than one month but which may extend to ten years, or with fine which may extend to one crore rupees or with both and where the failure to comply with the direction continues, with further fine which may extend to one lakh rupees for every day, after the first during which the contravention continues.

(6) If any provision of this Act is contravened, or if any default is made in complying with any other requirement of this Act, or of any regulation, order or direction made or given or condition imposed thereunder and in respect of which no penalty has been specified, then, the person guilty of such contravention or default, as the case may be, shall be punishable with fine which may extend to ten lakh rupees and where a contravention or default is a continuing one, with a further fine which may extend to twenty-five thousand rupees for every day, after the first during which the contravention or default continues.

## Offences by companies.

27. (1) Where a person committing a contravention of any of the provisions of this Act or any regulation, direction or order made thereunder is a company, every person who, at the time of the contravention, was in-charge of, and was responsible to, the company for the conduct of business of the company, as well as the company, shall be guilty of the contravention and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to punishment if he proves that the contravention took place without his knowledge or that he exercised all due diligence to prevent such contravention.

(2) Notwithstanding anything contained in sub-section (1), where a contravention of any of the provisions of this Act or of any regulation, direction or order made thereunder has been committed by a company and it is proved that the contravention has taken place with the consent or connivance of, or is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly.

*Explanation.*— For the purposes of this section,—

(a) “company” means any body corporate and includes a firm or other association of individuals; and

(b) “director”, in relation to a firm, means a partner in the firm.

28. (1) No court shall take cognizance of an offence punishable under this Act except upon a complaint in writing made by an officer of the Reserve Bank generally or specially authorised by it in writing in this behalf, and no court, lower than that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any such offence: Cognizance of offences.

Provided that the Court may take cognizance of an offence punishable under section 25 upon a complaint in writing made by the person aggrieved by the dishonour of the electronic funds transfer.

2 of 1974.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, a Magistrate may dispense with the personal attendance of the officer of the Reserve Bank filing the complaint, but the Magistrate may, in his discretion, at any stage of the proceedings, direct the personal attendance of the complainant.

29. A court imposing any fine under this Act may direct that the whole or any part thereof shall be applied in, or towards payment of, the costs of the proceedings. Application of fine.

30. (1) Notwithstanding anything contained in section 26, if a contravention or default of the nature referred to in sub-section (2) or sub-section (6) of section 26, as the case may be, the Reserve Bank may impose on the person contravening or committing default a penalty not exceeding five lakh rupees or twice the amount involved in such contravention or default where such amount is quantifiable, whichever is more, and where such contravention or default is a continuing one, a further penalty which may extend to twenty-five thousand rupees for every day after the first during which the contravention or default continues. Power of Reserve Bank to impose fines.

(2) For the purpose of imposing penalty under sub-section (1), the Reserve Bank shall serve a notice on the defaulter requiring him to show cause why the amount specified in the notice should not be imposed as a penalty and a reasonable opportunity of being heard shall also be given to such defaulter.

(3) Any penalty imposed by the Reserve Bank under this section shall be payable within a period of thirty days from the date on which notice issued by the Reserve Bank demanding payment of the sum is served on the defaulter and, in the event of failure of the person to pay the sum within such period, may be recovered on a direction made by the principal civil court having jurisdiction in the area where the registered office of the defaulter company or the official business of the person is situated:

Provided that no such direction shall be made, except on an application made by an officer of the Reserve Bank authorised by it in this behalf.

(4) The Reserve Bank may recover the amount of penalty by debiting the current account, if any, of the defaulter or by liquidating the securities held to the credit of the defaulter or in accordance with the provisions of this Act.

(5) The court which makes a direction under sub-section (3) shall issue a certificate specifying the sum payable by the defaulter and every such certificate shall be enforceable in the same manner as it were a decree made by the court in a civil suit.

(6) Where any complaint has been filed against any person in any court in respect of the contravention or default of the nature referred to in sub-section (2), or, as the case may be, sub-section (4) of section 26, then, no proceeding for the imposition of any penalty on the person shall be taken under this section.

Power to compound offences.

31. (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, any offence punishable under this Act for any contravention, not being an offence punishable with imprisonment only, or with imprisonment and also with fine, may, on receipt of an application from the person committing such contravention either before or after the institution of any proceeding, be compounded by an officer of the Reserve Bank duly authorised by it in this behalf. 2 of 1974.

(2) Where a contravention has been compounded under sub-section (1), no proceeding or further proceeding, as the case may be, shall be initiated or continued, as the case may be, against the person committing such contravention under that section, in respect of the contravention so compounded.

## CHAPTER VIII

### MISCELLANEOUS

Act to have overriding effect.

32. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

Mode of recovery of penalty.

33. (1) The penalty imposed on the defaulter by the Reserve Bank under section 30 may be recovered by issuing a notice to any person from whom any amount is due to the defaulter, by requiring such person to deduct from the amount payable by him to the defaulter, the amount payable to the Reserve Bank by way of penalty and pay to the Reserve Bank.

(2) Save as otherwise provided in this section, every person to whom a notice is issued under this sub-section shall be bound to comply with such notice, and, in particular, where such notice is issued to a post office, bank or an insurer, it shall not be necessary for any passbook, deposit receipt, policy or any other document to be produced for the purpose of any entry, endorsement or the like being made before payment is made notwithstanding that any rule, practice or requirement to the contrary.

(3) Any claim respecting any property in relation to which a notice under this sub-section has been issued arising after the date of the notice shall be void as against any demand contained in the notice.

(4) Where a person to whom the notice under this sub-section is sent objects to it by a statement on oath that the sum demanded or any part thereof is not due to the defaulter or that he does not hold any money for or on account of the defaulter, then, nothing contained in this sub-section shall be deemed to require such person to pay any such sum or part thereof, as the case may be, but if it is discovered that such statement was false in any material particular, such person shall be personally liable to the Reserve Bank to the extent of his own liability to the defaulter on the date of the notice, or to the extent of the penalty imposed on the defaulter by the Reserve Bank, whichever is less.

(5) The Reserve Bank may at any time or from time to time, amend or revoke any notice issued under this section or extend the time for making the payment in pursuance of such notice.

(6) The Reserve Bank shall grant a receipt for any amount paid to it in compliance with a notice issued under this section and the person so paying shall be fully discharged from his liability to the defaulter to the extent of the amount so paid.

(7) Any person discharging any liability to the defaulter after the receipt of a notice under this section shall be personally liable to the Reserve Bank to the extent of his own liability to the defaulter so discharged or to the extent of the penalty imposed on the defaulter by the Reserve Bank, whichever is less.

(8) If the person to whom the notice under this section is sent fails to make payment in pursuance thereof to the Reserve Bank, he shall be deemed to be the defaulter in respect of the amount specified in the notice and further proceedings may be taken against him for the realisation of the amount as if it were an arrear due from him in the manner provided in this section.

*Explanation.* — For the purposes of this section, “defaulter” means any person or system provider or system participant on whom the Reserve Bank has imposed a penalty under section 30.

34. Nothing contained in this Act shall apply to stock exchanges or the clearing corporations of the stock exchanges.

Act not to apply to stock exchanges or clearing corporations of stock exchanges.

35. (1) Every officer of the Reserve Bank who has been entrusted with any power under this Act, shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

Certain persons deemed to be public servants.

45 of 1860.

36. No suit or other legal proceedings shall lie against the Central Government, the Reserve Bank, or any officer thereof for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of this Act, any regulations, order or direction made or given thereunder.

Protection of action taken in good faith.

37. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provision is not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for removing the difficulty:

Power to remove difficulties.

Provided that no order shall be made under this section after the expiry of a period of two years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

38. (1) The Reserve Bank may, by notification, make regulations consistent with this Act to carry out the provisions of this Act.

Power of Reserve Bank to make regulations.

(2) In particular, and without prejudice to the generality of the foregoing provision, such regulations may provide for all or any of the following matters, namely:—

(a) the powers and functions of the Committee constituted under sub-section (2), the time and venue of its meetings and the procedure to be followed by it at its meetings (including the quorum at such meetings) under sub-section (4) of section 3;

(b) the form and manner in which an application for authorisation for commencing or carrying on a payment system shall be made and the fees which shall accompany such application under sub-section (2) of section 5;

(c) the form in which an authorisation to operate a payment system under this Act shall be issued under sub-section (2) of section 7;

(d) the format of payment instructions and other matters relating to determination of standards to be complied with by the payment systems under sub-section (1) of section 10;



(e) the intervals, at which and the form and manner in which the information or returns required by the Reserve Bank shall be furnished under section 12;

(f) such other matters as are required to be, or may be, prescribed.

(2) Any regulation made under this section shall have effect from such earlier or later date (nor earlier than the date of commencement of this Act) as may be specified in the regulation.

(3) Every regulation shall, as soon as may be after it is made by the Reserve Bank, be forwarded to the Central Government and that Central Government shall cause a copy of the same to be laid before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the regulation, or both Houses agree that the regulation should not be made, the regulation shall, thereafter, have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that regulation.

Sd/-

**DR. K. N. CHATURVEDI,**  
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

**H. D. VYAS**  
Secretary to Government.



सत्यमेव जयते

# The Gujarat Government Gazette

## EXTRAORDINARY

### PUBLISHED BY AUTHORITY

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MONDAY, MARCH 31, 2008/CAITRA 11, 1930

Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

#### PART VI

Acts of Parliament and Ordinances Promulgated by the President.

#### LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 31<sup>st</sup> March, 2008.

No. RPB/11-2008/Act-52--07/E:-The following Act of Parliament is republished for General information:-

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

Legislative Department

New Delhi, the 20<sup>th</sup> December, 2007, Agrahayana 29, 1929 (Sake)The following Act of Parliament has received the assent of the President on the 20<sup>th</sup> December, 2007, is hereby published for general information:-

#### THE INDIRA GANDHI NATIONAL TRIBAL UNIVERSITY ACT, 2007

#### AN ACT

(Act No. 52 of 2007)

[20<sup>th</sup> December, 2007]

*to establish and incorporate a teaching and affiliating University at Amarkantak in the State of Madhya Pradesh to facilitate and promote avenues of higher education and research facilities for the tribal population in India and to provide for matters connected therewith or incidental thereto.*

Be it enacted by Parliament in the Fifty-eighth Year of the Republic of India as follows:—

1. (1) This Act may be called the Indira Gandhi National Tribal University Act, 2007.  
(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Short title and commencement.

2. In this Act, and in all Statutes made hereunder, unless the context otherwise requires,—

Definitions.

(a) "Academic Board" in relation to a regional centre or a recognised institution means the academic body charged with the academic matters of such centre or institution, as the case may be, and recognised as such by the University;

- (b) "Academic Council" means the Academic Council of the University;
- (c) "academic staff" means such categories of staff as are designated as academic staff by the Ordinances;
- (d) "Affiliated College" means a college admitted to the privileges of the University;
- (e) "Board of Studies" means the Board of Studies of the University;
- (f) "Campus" means the unit established or constituted for making arrangements for instruction, or research, or both, and includes off-campuses;
- (g) "Chancellor", "Vice-Chancellor" and "Pro-Vice-Chancellor" mean, respectively, the Chancellor, Vice-Chancellor and Pro-Vice-Chancellor of the University;
- (h) "College Development Council" means the College Development Council of the University;
- (i) "Court" means the Court of the University;
- (j) "Dean" means Head of a Faculty of the University;
- (k) "Department" means a Department of Studies and includes a Centre of Studies;
- (l) "distance education system" means the system of imparting education through any means of communication, such as broadcasting, telecasting, webcasting correspondence courses, seminars, contact programmes or the combination of any two or more such means;
- (m) "Director" means Head of a Regional Centre;
- (n) "employee" means any person appointed by the University and includes teachers and other staff of the University;
- (o) "Executive Council" means the Executive Council of the University;
- (p) "Faculty" means a Faculty of the University;
- (q) "Finance Committee" means the Finance Committee of the University;
- (r) "Hall" means a unit of residence or of corporate life for the students of the University, or of a College or of an Institution, maintained or recognised by the University;
- (s) "Institution" means an academic institution, not being a College, maintained by, or admitted to the privileges of, the University;
- (t) "Management Board" in relation to a regional centre or a recognised institution means the governing body charged with the management of the affairs of such centre or institution, as the case may be, and recognised as such by the University;
- (u) "Principal" means the Head of a College or an Institution maintained by the University and includes, where there is no Principal, the person for the time being duly appointed to act as Principal, and in the absence of the Principal, or the acting Principal, a Vice-Principal duly appointed as such;
- (v) "recognised teachers" means such persons as may be recognised by the University for the purpose of imparting instructions in a College or an Institution admitted to the privileges of the University;

(w) "Regional Centres" means off-campus constituted by the University and functioning as part of the University, established in more tribal dominated areas, as prescribed in the Statutes;

(x) "Regulations" means the Regulations made by any authority of the University under this Act for the time being in force;

(y) "Scheduled Population" means and includes the Scheduled Tribes as well as Scheduled Castes, as defined in the Constitution of India;

(z) "Statutes" and "Ordinances" mean, respectively, the Statutes and the Ordinances of the University, for the time being in force;

(za) "teachers of the University" means Professors, Readers, Lecturers and such other persons as may be appointed for imparting instructions or conducting research in the University or any College or Institution maintained by the University and are designated as teachers by the Ordinances;

(zb) "University" means the Indira Gandhi National Tribal University as incorporated under this Act.

3. (1) There shall be established, in the State of Madhya Pradesh, a University by the name of "Indira Gandhi National Tribal University".

Establishment  
of University.

(2) The headquarters of the University shall be at Amarkantak.

(3) The University shall have such number of Regional Centres and Campuses in the tribal areas as the University may deem fit.

(4) The first Chancellor, the first Vice-Chancellor and the first members of the Court, the Executive Council and the Academic Council, and all such persons who may hereafter become such officers or members, so long as they continue to hold such office or membership, are hereby constituted a body corporate by the name of "Indira Gandhi National Tribal University".

(5) The University shall have perpetual succession and a common seal, and shall sue and be sued by the said name.

4. The objects of the University shall be,—

Objects of  
University.

(i) to provide avenues of higher education and research facilities primarily for the tribal population of India;

(ii) to disseminate and advance knowledge by providing instructional and research facilities in tribal art, culture, tradition, language, medicinal systems, customs, forest based economic activities, flora, fauna and advancement in technologies relating to the natural resources of the tribal areas;

(iii) to collaborate with national and international universities or organisations, specially for undertaking cultural studies and research on tribal populations;

(iv) to formulate tribal centric development models, publish reports and monographs; and to organise conferences, seminars on issues relating to tribes; and to provide inputs to policy matters in different spheres;

(v) to take appropriate measures for promoting, the members of tribal communities capable of managing, administering and looking after their own needs by access to higher education through a University of their own;

(vi) to disseminate and advance knowledge by providing instructional and research facilities in such other branches of learning as it may deem fit;

(vii) to take appropriate measures for promoting innovations in teaching-learning processes in inter-disciplinary studies and research; and to pay special



attention to the improvement of the social, educational and economic conditions and welfare of the Scheduled Tribes within the Union of India, their intellectual, academic and cultural development.

Powers of  
University.

5. The University shall have the following powers, namely:—

(i) to provide for instruction in such branches of learning as the University may, from time to time, determine and to make provisions for research and for the advancement and dissemination of knowledge;

(ii) to grant, subject to such conditions as the University may determine, diplomas or certificates to, and confer degrees or other academic distinctions on the basis of examinations, evaluation or any other method of testing on, persons, and to withdraw any such diplomas, certificates, degrees or other academic distinctions for good and sufficient cause;

(iii) to organise and to undertake extra-mural studies, training and extension services;

(iv) to confer honorary degrees or other distinctions in the manner prescribed by the Statutes;

(v) to provide facilities through the distance education system to such persons as it may determine;

(vi) to institute Directorships, Principalships, Associateships, Professorships, Readerships, Lecturerships and other teaching or academic positions, required by the University and to appoint persons to such Directorships, Principalships, Associateships, Professorships, Readerships, Lecturerships and other teaching or academic positions;

(vii) to recognise an institution of higher learning for such purposes as the University may determine and to withdraw such recognition;

(viii) to recognise persons for imparting instructions in any College or Institution recognised or maintained by the University;

(ix) to appoint persons working in any other University or educational institution as teachers of the University for a specified period;

(x) to create administrative, ministerial and other posts and to make appointments thereto;

(xi) to co-operate or collaborate or associate with any other University or authority or Institution of higher learning in such manner and for such purposes as the University may determine;

(xii) to establish, with the prior approval of the Central Government, such Campuses, special centres, specialised laboratories or other units for research and instruction as are, in the opinion of the University, necessary for the furtherance of its objects;

(xiii) to institute and award fellowships, scholarships, studentships, medals and prizes;

(xiv) to establish and maintain Colleges, Institutions and Halls;

(xv) to make provision for research and advisory services and for that purpose to enter into such arrangements with other institutions, industrial or other organisations, as the University may deem necessary;

(xvi) to organise and conduct refresher courses, workshops, seminars and other programmes for teachers, evaluators and other academic staff;

(xvii) to make special arrangements in respect of the residence and teaching of women students as the University may deem necessary;

(xviii) to appoint on contract or otherwise visiting professors, Emeritus Professors, Consultants, Scholars and such other persons who may contribute to the advancement of the objects of the University;

(xix) to confer autonomous status on a College or an Institution or a Department, as the case may be, in accordance with the Statutes;

(xx) to admit to its privileges Colleges and Institutions located in India not maintained by the University; to withdraw all or any of those privileges in accordance with such conditions as may be prescribed by the Statutes; to recognise, guide, supervise, and control Halls not maintained by the University and other accommodation for students, and to withdraw any such recognition;

(xxi) to determine standards of admission to the University which may include examination, evaluation or any other method of testing;

(xxii) to demand and receive payment of fees and other charges;

(xxiii) to supervise the residences of the students of the University and to make arrangements for promoting their health and general welfare;

(xxiv) to lay down conditions of service of all categories of employees, including their code of conduct;

(xxv) to regulate and enforce discipline among the students and the employees and to take such disciplinary measures in this regard as may be deemed by the University to be necessary;

(xxvi) to make arrangements for promoting the health and general welfare of the employees;

(xxvii) to receive benefactions, donations and gifts and to acquire, hold, manage and dispose of with the previous approval of the Central Government, any property, movable or immovable, including trust and endowment properties for the purposes of the University;

(xxviii) to borrow, with the prior approval of the Central Government, on the security of the property of the University, money for the purposes of the University;

(xxix) to establish such number of Regional Centres in various tribal areas of the country as are, in the opinion of the University, necessary for the furtherance of its objects;

(xxx) to make special provisions for the promotion of educational, economic interests and welfare of the members belonging to the Scheduled Tribes by providing adequate percentage of seats in the matters of admission, of posts in the matter of employment and other benefits;

(xxxi) to do all such other acts and things as may be necessary, incidental or conducive to the attainment of all or any of its objects.

6. The jurisdiction of the University shall extend to the whole of India.

Jurisdiction.

7. The University shall be open to persons of either sex and of whatever race, creed, caste or class, and it shall not be lawful for the University to adopt or impose on any person, any test whatsoever of religious belief or profession in order to entitle him to be appointed as a teacher of the University or to hold any other office therein or be admitted as a student in the University or to graduate thereat or to enjoy or exercise any privilege thereof.

University open to all classes, castes and creed.

Provided that nothing in this section shall be deemed to prevent the University from making special provisions for the employment or admission of women, persons with

disabilities or of persons belonging to the weaker sections of the society and, in particular, of the Scheduled Castes and the Scheduled Tribes.

Residence of students.

8. Every student of the University other than a student who pursues a course of study by distance education system, shall reside in a Hall or hostel or under such conditions as may be prescribed by the Ordinances.

Power to establish and maintain schools.

9. The University shall, subject to Statutes, have power to establish at least one school in every Regional Centre, as a model school for the schools of the region.

The Visitor.

10. (1) The President of India shall be the Visitor of the University.

(2) The Visitor may, from time to time, appoint one or more persons to review the work and progress of the University, including Colleges and Institutions maintained by it, and to submit a report thereon; and upon receipt of that report, the Visitor may, after obtaining the views of the Executive Council thereon through the Vice-Chancellor, take such action and issue such directions as he considers necessary in respect of any of the matters dealt with in the report and the University shall be bound to comply with such directions.

(3) The Visitor shall have the right to cause an inspection to be made by such person or persons as he may direct, of the University, its buildings, libraries, laboratories and equipment, and of any College or Institution maintained by the University or admitted to its privileges; and also of the examinations, teaching and other work conducted or done by the University and to cause an inquiry to be made in like manner in respect of any matter connected with the administration or finances of the University, Colleges or Institutions.

(4) The Visitor shall, in every matter referred to in sub-section (3), give notice of his intention to cause an inspection or inquiry to be made,—

(a) to the University, if such inspection or inquiry is to be made in respect of the University or any College or Institution maintained by it, or

(b) to the management of the College or Institution, if the inspection or inquiry is to be made in respect of College or Institution admitted to the privileges of the University, and the University or the management, as the case may be, shall have the right to make such representations to the Visitor, as it may consider necessary.

(5) After considering the representations, if any, made by the University or the management, as the case may be, the Visitor may cause to be made such inspection or inquiry as is referred to in sub-section (3).

(6) Where any inspection or inquiry has been caused to be made by the Visitor, the University or the management shall be entitled to appoint a representative, who shall have the right to be present and be heard at such inspection or inquiry.

(7) The Visitor may, if the inspection or inquiry is made in respect of the University or any College or Institution maintained by it, address the Vice-Chancellor with reference to the result of such inspection or inquiry together with such views and advice with regard to the action to be taken thereon, as the Visitor may be pleased to offer, and on receipt of address made by the Visitor, the Vice-Chancellor shall communicate, to the Executive Council, the views of the Visitor with such advice as the Visitor may offer upon the action to be taken thereon.

(8) The Visitor may, if the inspection or inquiry is made in respect of any College or Institution admitted to the privileges of the University, address the management concerned through the Vice-Chancellor with reference to the result of such inspection or inquiry, his views thereon and such advice as he may be pleased to offer upon the action to be taken thereon.

(9) The Executive Council or the management, as the case may be, shall communicate, through the Vice-Chancellor to the Visitor such action, if any, as it proposes to take or has been taken upon the result of such inspection or inquiry.

(10) Where, the Executive Council or the management, does not, within a reasonable time, take action to the satisfaction of the Visitor, the Visitor may, after considering any explanation furnished or representation made by the Executive Council or the management, issue such directions as he may think fit and the Executive Council or the management, as the case may be, shall comply with such directions.

(11) Without prejudice to the foregoing provisions of this section, the Visitor may, by order in writing, annul any proceeding of the University which is not in conformity with the Act, the Statutes or the Ordinances:

Provided that before making any such order, he shall call upon the Registrar to show cause why such an order should not be made, and, if any cause is shown within a reasonable time, he shall consider the same.

(12) The Visitor shall have such other powers as may be prescribed by the Statutes.

11. The following shall be the officers of the University:—

Officers of  
University.

- (1) the Chancellor;
- (2) the Vice-Chancellor;
- (3) the Pro-Vice-Chancellor;
- (4) the Director;
- (5) the Deans of Faculties;
- (6) the Registrar;
- (7) the Finance Officer;
- (8) the Controller of Examinations;
- (9) the Librarian; and

(10) such other officers as may be declared by the Statutes to be officers of the University.

12. (1) The Chancellor shall be appointed by the Visitor in such manner as may be prescribed by the Statutes.

The  
Chancellor.

(2) The Chancellor shall, by virtue of his office, be the head of the University and shall, if present, preside at the Convocations of the University held for conferring degrees and meetings of the Court.

13. (1) The Vice-Chancellor shall be appointed by the Visitor in such manner as may be prescribed by the Statutes.

The Vice-  
Chancellor.

(2) The Vice-Chancellor shall be the principal executive and academic officer of the University and shall exercise general supervision and control over the affairs of the University and give effect to the decisions of all the authorities of the University.

(3) The Vice-Chancellor may, if he is of the opinion that immediate action is necessary on any matter, exercise any power conferred on any authority of the University by or under this Act and shall report to such authority at its next meeting the action taken by him on such matter.

Provided that if the authority concerned is of the opinion that such action ought not to have been taken, it may refer the matter to the Visitor whose decision thereon shall be final.



Provided further that any person in the service of the University who is aggrieved by the action taken by the Vice-Chancellor under this sub-section shall have the right to represent against such action to the Executive Council within three months from the date on which decision on such action is communicated to him and thereupon the Executive Council may confirm, modify or reverse the action taken by the Vice-Chancellor.

(4) The Vice-Chancellor, if he is of the opinion that any decision of any authority of the University is beyond the powers of the authority conferred by the provisions of this Act, the Statutes or the Ordinances or that any decision taken is not in the interest of the University, may ask the authority concerned to review its decision within sixty days of such decision and if the authority refuses to review the decision either in whole or in part or no decision is taken by it within the said period of sixty days, the matter shall be referred to the Visitor whose decision thereon shall be final.

(5) The Vice-Chancellor shall exercise such other powers and perform such other duties as may be prescribed by the Statutes or the Ordinances.

The Pro-Vice-Chancellor.

14. The Pro-Vice-Chancellor shall be appointed in such manner and on such terms and conditions of service, and shall exercise such powers and perform such duties, as may be prescribed by the Statutes.

The Deans of Faculties.

15. Every Dean of Faculty shall be appointed in such manner and shall exercise such powers and perform such duties, as may be prescribed by the Statutes.

The Directors of Regional Centres.

16. Every Director of Regional Centre shall be appointed in such manner and shall exercise such powers and perform such duties, as may be prescribed by the Statutes.

The Registrar.

17. (1) The Registrar shall be appointed in such manner and on such terms and conditions of service, as may be prescribed by the Statutes.

(2) The Registrar shall have the power to enter into agreements, sign documents and authenticate records on behalf of the University and shall exercise such powers and perform such duties, as may be prescribed by the Statutes.

The Finance Officer.

18. The Finance Officer shall be appointed in such manner and shall exercise such powers and perform such duties, as may be prescribed by the Statutes.

The Controller of Examinations.

19. The Controller of Examinations shall be appointed in such manner and shall exercise such powers and perform such duties, as may be prescribed by the Statutes.

The Librarian.

20. The Librarian shall be appointed in such manner and on such terms and conditions of service, and shall exercise such powers and perform such duties, as may be prescribed by the Statutes.

Other officers.

21. The manner of appointment and powers and duties of other officers of the University shall be prescribed by the Statutes.

Authorities of University.

22. The following shall be the authorities of the University:—

(1) the Court;

(2) the Executive Council;

(3) the Academic Council;

(4) the College Development Council;

(5) the Board of Studies;

(6) the Finance Committee; and

(7) such other authorities as may be declared by the Statutes to be the authorities of the University.

**23. (1)** The constitution of the Court and the term of office of its members shall be prescribed by the Statutes: The Court.

Provided that the Court shall have adequate number of members from amongst the Scheduled Tribes:

Provided further that such number of members as may be prescribed by the Statutes shall be elected from among the teachers, employees and students of the University.

**(2)** Subject to the provisions of this Act, the Court shall have the following powers and functions, namely:—

(a) to review, from time to time, the broad policies and programmes of the University and to suggest measures for the improvement and development of the University;

(b) to consider and pass resolutions on the annual report and the annual accounts of the University and the audit report on such accounts;

(c) to advise the Visitor in respect of any matter which may be referred to it for advice; and

(d) to perform such other functions as may be prescribed by the Statutes.

**24. (1)** The Executive Council shall be the principal executive body of the University. The Executive Council.

**(2)** The constitution of the Executive Council, the term of office of its members and its powers and functions shall be prescribed by the Statutes:

Provided that the Executive Council shall have adequate number of members from amongst the Scheduled Tribes:

Provided further that such number of members as may be prescribed by the Statutes shall be from amongst the elected members of the Court.

**25. (1)** The Academic Council shall be the principal academic body of the University and shall, subject to the provisions of this Act, the Statutes and the Ordinances, co-ordinate and exercise general supervision over the academic policies of the University. The Academic Council.

**(2)** The constitution of the Academic Council, the term of office of its members and its powers and functions shall be prescribed by the Statutes:

Provided that the Academic Council shall have adequate number of members from amongst the Scheduled Tribes:

Provided further that such number of members as may be prescribed by the Statutes shall be from amongst the elected members of the Court who are teachers of the University.

**26. (1)** The College Development Council shall be responsible for admitting Colleges to the privileges of the University. The College Development Council.

**(2)** The constitution of the College Development Council, the term of office of its members and its powers and functions shall be prescribed by the Statutes:

Provided that the College Development Council shall have adequate number of members from amongst the Scheduled Tribes.

**27.** The constitution, powers and functions of the Boards of Studies, the Academic Boards and the Management Boards shall be prescribed by the Statutes: The Boards of Studies, Academic Boards and Management Boards.

Provided that the Boards of Studies, the Academic Boards and the Management Boards shall have adequate number of members from amongst the Scheduled Tribes.

**28.** The constitution, powers and functions of the Finance Committee shall be prescribed by the Statutes: The Finance Committee.

Provided that the Finance Committee shall have adequate number of members from amongst the Scheduled Tribes.

Other  
authorities of  
University.

29. The constitution, powers and functions of other authorities, as may be declared by the Statutes to be the authorities of the University, shall be prescribed by the Statutes:

Provided that the other authorities of the University shall have adequate number of members from amongst the Scheduled Tribes.

Power to  
make Statutes.

30. Subject to the provisions of this Act, the Statutes may provide for all or any of the following matters, namely:—

(a) the constitution, powers and functions of authorities and other bodies of the University, as may be constituted from time to time;

(b) the appointment and continuance in office of the members of the said authorities and bodies, the filling up of vacancies of members, and all other matters relating to those authorities and other bodies for which it may be necessary or desirable to provide;

(c) the appointment, powers and duties of the officers of the University and their emoluments;

(d) the appointment of teachers, academic staff and other employees of the University, their emoluments and conditions of service;

(e) the recognition of persons as recognised teachers;

(f) the appointment of teachers, academic staff working in any other University or organisation for a specific period for undertaking a joint project;

(g) the conditions of service of employees including provisions for pension, insurance, provident fund, the manner of termination of service and disciplinary action;

(h) the principles governing the seniority of service of the employees of the University;

(i) the procedure for arbitration in cases of dispute between employees or students and the University;

(j) the procedure for appeal to the Executive Council by any employee or student against the action of any officer or authority of the University;

(k) the conferment of autonomous status on a College or an Institution or a Department;

(l) the establishment and abolition of Faculties, Departments, Centres, Halls, Colleges and Institutions;

(m) the conferment of honorary degrees;

(n) the withdrawal of degrees, diplomas, certificates and other academic distinctions;

(o) the conditions under which Colleges and Institutions may be admitted to the privileges of the University and the withdrawal of such privileges;

(p) the management of Colleges and Institutions established by the University;

(q) the delegation of powers vested in the authorities or officers of the University;

(r) the maintenance of discipline among the employees and students; and

(s) all other matters which by this Act are to be or may be provided for by the Statutes.

31. (1) The first Statutes are those set out in the Schedule.

Statutes, how  
to be made.

(2) The Executive Council may, from time to time, make new or additional Statutes or may amend or repeal the Statutes referred to in sub-section (1):

Provided that the Executive Council shall not make, amend or repeal any Statutes affecting the status, powers or constitution of any authority of the University until such authority has been given an opportunity of expressing an opinion in writing on the proposed changes, and any opinion so expressed shall be considered by the Executive Council.

(3) Every new Statute or addition to the Statutes or any amendment or repeal of a Statute shall require the assent of the Visitor who may assent thereto or withhold assent or remit to the Executive Council for re-consideration.

(4) A new Statute or a Statute amending or repealing an existing Statute shall have no validity unless it has been assented to by the Visitor.

(5) Notwithstanding anything contained in the foregoing sub-sections, the Visitor may make new or additional Statutes or amend or repeal the Statutes referred to in sub-section (1), during the period of three years immediately after the commencement of this Act:

Provided that the Visitor may, on the expiry of the said period of three years, make, within one year from the date of such expiry, such detailed Statutes as he may consider necessary and such detailed Statutes shall be laid before both Houses of Parliament.

(6) Notwithstanding anything contained in the foregoing sub-sections, the Visitor may direct the University to make provisions in the Statutes in respect of any matter specified by him and if the Executive Council is unable to implement such direction within sixty days of its receipt, the Visitor may, after considering the reasons, if any, communicated by the Executive Council for its inability to comply with such direction, make or amend the Statutes suitably.

32. (1) Subject to the provisions of this Act and the Statutes, the Ordinances may provide for all or any of the following matters, namely:—

Power  
to make  
Ordinances.

(a) the admission of students to the University and their enrolment as such;

(b) the courses of study to be laid down for all degrees, diplomas and certificates of the University;

(c) the medium of instruction and examination;

(d) the award of degrees, diplomas, certificates and other academic distinctions, the qualifications for the same and the means to be taken relating to the granting and obtaining of the same;

(e) the fees to be charged for courses of study in the University and for admission to the examinations, degrees and diplomas of the University;

(f) the institution of fellowships, scholarships, studentships, medals and prizes;

(g) the conditions for award of fellowships, scholarships, studentships, medals and prizes;

(h) the conduct of examinations, including the term of office and the manner of appointment and the duties of examining bodies, examiners and moderators;

(i) the conditions of residence of the students of the University;

(j) the special arrangements, if any, which may be made for the residence and teaching of women students and the prescribing of special courses of studies for them;



(k) the appointments and emoluments of employees other than those for whom provision has been made in the Statutes;

(l) the setting up of a machinery for redressal of grievances of employees;

(m) the establishment and management of Regional Centres, Schools, Colleges, other Institutions, Centres of Studies, Boards of Studies, Special Centres, Specialised Laboratories and other Committees;

(n) the manner of co-operation and collaboration with other Universities, institutions and other non-profiteering agencies including learned bodies or associations;

(o) the creation, composition and functions of any other body which is considered necessary for improving the academic life of the University;

(p) the institution of fellowships, scholarships, studentships, medals and prizes;

(q) the supervision of management of Colleges and Institutions admitted to the privileges of the University; and

(r) all other matters which by this Act or the Statutes, are to be or may be, provided for by the Ordinances.

(2) The first Ordinances shall be made by the Vice-Chancellor with the previous approval of the Central Government and the Ordinances so made may be amended, repealed or added to at any time by the Executive Council in the manner prescribed by the Statutes.

#### Regulations.

33. The authorities of the University may make Regulations, consistent with this Act, the Statutes and the Ordinances for the conduct of their own business and that of the Committees, if any, appointed by them and not provided for by this Act, the Statutes or the Ordinances, in the manner prescribed by the Statutes.

#### Annual report.

34. (1) The annual report of the University shall be prepared under the direction of the Executive Council, which shall include, among other matters, the steps taken by the University towards the fulfilment of its objects and shall be submitted to the Court on or after such date as may be prescribed by the Statutes and the Court shall consider the report in its annual meeting.

(2) The Court shall submit the annual report to the Visitor along with its comments, if any.

(3) A copy of the annual report, as prepared under sub-section (1), shall also be submitted to the Central Government, which shall, as soon as may be, cause the same to be laid before both Houses of Parliament.

#### Annual accounts.

35. (1) The annual accounts and balance-sheet of the University shall be prepared under the directions of the Executive Council and shall, once at least every year and at intervals of not more than fifteen months, be audited by the Comptroller and Auditor-General of India or by such persons as he may authorise in this behalf.

(2) A copy of the annual accounts together with the audit report thereon shall be submitted to the Court and the Visitor along with the observations of the Executive Council.

(3) Any observations made by the Visitor on the annual accounts shall be brought to the notice of the Court and the observations of the Court, if any, shall, after being considered by the Executive Council, be submitted to the Visitor.

(4) A copy of the annual accounts together with the audit report as submitted to the Visitor, shall also be submitted to the Central Government, which shall, as soon as may be, cause the same to be laid before both Houses of Parliament.

(5) The audited annual accounts after having been laid before both Houses of Parliament shall be published in the Official Gazette.

36. (1) There shall be a University Fund which shall include—

Fund of  
University.

- (a) any contribution or grant made by the State Government;
- (b) any contribution or grant made by the University Grants Commission or the Central Government;
- (c) any contribution made by Government, semi-Government or autonomous bodies;
- (d) any bequests, donations, endowments or other grants made by any private individual or institution;
- (e) income received by the University from fees and charges; and
- (f) amounts received from any other source.

2 of 1934.  
5 of 1970.  
40 of 1980.  
2 of 1882.

(2) The amount of the said Fund shall be kept in a Scheduled Bank as defined in the Reserve Bank of India Act, 1934, or in a corresponding new bank constituted under the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 and the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 or may be invested in such securities authorised by the Indian Trusts Act, 1882, as may be decided by the Executive Council.

(3) The said Fund may be utilised for such purposes of the University and in such manner as may be prescribed.

37. The University shall furnish to the Central Government such returns or other information with respect to its property or activities as the Central Government may, from time to time, require.

Returns and  
information.

38. (1) Every employee of the University shall be appointed under a written contract, which shall be lodged with the University and a copy of which shall be furnished to the employee concerned.

Conditions of  
service of  
employees.

(2) Any dispute arising out of the contract between the University and any employee shall, at the request of the employee, be referred to a Tribunal of Arbitration consisting of one member appointed by the Executive Council, one member nominated by the employee concerned and an umpire appointed by the Visitor.

(3) The decision of the Tribunal shall be final, and no suit shall lie in any civil court in respect of the matters decided by the Tribunal:

Provided that nothing in this sub-section shall preclude the employee from availing of the judicial remedies available under articles 32 and 226 of the Constitution.

26 of 1996.

(4) Every request made by the employee under sub-section (2), shall be deemed to be a submission to arbitration upon the terms of this section within the meaning of the Arbitration and Conciliation Act, 1996.

(5) The procedure for regulating the work of the Tribunal shall be prescribed by the Statutes.

39. (1) Any student or candidate for an examination whose name has been removed from the rolls of the University by the orders or resolution of the Vice-Chancellor, Discipline Committee or Examination Committee, as the case may be, and who has been debarred from appearing at the examinations of the University for more than one year, may, within ten days of the date of receipt of such orders or copy of such resolution by him, appeal to the Executive Council and the Executive Council may confirm, modify or reverse the decision of the Vice-Chancellor or the Committee, as the case may be.

Procedure of  
appeal and  
arbitration in  
disciplinary  
cases against  
students.

(2) Any dispute arising out of any disciplinary action taken by the University against a student shall, at the request of such student, be referred to a Tribunal of Arbitration and the provisions of sub-sections (2), (3), (4) and (5) of section 38 shall, as far as may be, apply to a reference made under this sub-section.

Right to  
appeal.

40. Every employee or student of the University or of a College or Institution maintained by the University or admitted to its privileges shall, notwithstanding anything contained in this Act, have a right to appeal within such time as may be prescribed by the Statutes, to the Executive Council against the decision of any officer or authority of the University or of the Principal or the management of any College or an Institution, as the case may be, and thereupon the Executive Council may confirm, modify or reverse the decision appealed against.

Provident and  
pension funds.

41. (1) The University shall constitute for the benefit of its employees such provident or pension fund or provide such insurance schemes as it may deem fit in such manner and subject to such conditions as may be prescribed by the Statutes.

(2) Where such provident fund or pension fund has been so constituted, the Central Government may declare that the provisions of the Provident Funds Act, 1925, shall apply to such fund, as if it were a Government provident fund. 19 of 1925.

Disputes as to  
constitution of  
authorities and  
bodies.

42. If any question arises as to whether any person has been duly elected or appointed as, or is entitled to be, a member of any authority or other body of the University, the matter shall be referred to the Visitor whose decision thereon shall be final.

Constitution  
of  
Committees.

43. Where any authority of the University is given power by this Act or the Statutes to appoint Committees, such Committees shall, save as otherwise provided, consist of the members of the authority concerned and of such other person, if any, as the authority in each case may think fit.

Filling of  
casual  
vacancies.

44. All casual vacancies among the members (other than *ex officio* members) of any authority or other body of the University shall be filled, as soon as may be, by the person or body who appoints, elects or co-opts the member whose place has become vacant and person appointed, elected or co-opted to a casual vacancy shall be a member of such authority or body for the residue of the term for which the person whose place he fills would have been a member.

Proceedings of  
authorities or  
bodies not  
invalidated by  
vacancies.

45. No act or proceedings of any authority or other body of the University shall be invalid merely by reason of the existence of a vacancy or vacancies among its members.

Protection of  
action taken  
in good faith.

46. No suit or other legal proceeding shall lie against any officer or other employee of the University for anything which is in good faith done or intended to be done in pursuance of any of the provisions of this Act, the Statutes or the Ordinances.

Mode of proof  
of University  
record.

47. Notwithstanding anything contained in the Indian Evidence Act, 1872 or in any other law for the time being in force, a copy of any receipt, application, notice, order, proceeding or resolution of any authority or other body of the University, or any other document in possession of the University, or any entry in any register duly maintained by the University, if certified by the Registrar, shall be received as *prima facie* evidence of such receipt, application, notice, order, proceeding, resolution or document or the existence of entry in the register and shall be admitted as evidence of the matters and transactions therein where the original thereof would, if produced, have been admissible in evidence. 1 of 1872.

Power to  
remove  
difficulties.

48. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removing the difficulty:

Provided that no such order shall be made under this section after the expiry of three years from the commencement of this Act.

(2) Every order made under sub-section (1) shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if,

before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the order or both Houses agree that the order should not be made, the order shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that order.

49. (1) Every Statute, Ordinance or Regulation made under this Act shall be published in the Official Gazette.

Statutes,  
Ordinances  
and  
Regulations to  
be published in  
the Official  
Gazette and to  
be laid before  
Parliament.

(2) Every Statute, Ordinance or Regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the Statute, Ordinance or Regulation or both Houses agree that the Statute, Ordinance or Regulation should not be made, the Statute, Ordinance or Regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that Statute, Ordinance or Regulation.

(3) The power to make Statutes, Ordinances or Regulations shall include the power to give retrospective effect, from a date not earlier than the date of commencement of this Act, to the Statute, Ordinance or Regulation or any of them but no retrospective effect shall be given to any Statute, Ordinance or Regulation so as to prejudicially affect the interests of any person to whom such Statute, Ordinance or Regulation may be applicable.

50. Notwithstanding anything contained in this Act and the Statutes,—

Transitional  
provisions.

(a) the first Chancellor and first Vice-Chancellor shall be appointed by the Central Government in such manner and on such conditions as may be deemed fit and each of the said officer shall hold office for such term, not exceeding five years, as may be specified by the Central Government;

(b) the first Registrar and the first Finance Officer shall be appointed by the Central Government and each of the said officers shall hold office for a term of three years;

(c) the first Court and the first Executive Council shall consist of not more than thirty-one members and eleven members, respectively, who shall be nominated by the Central Government and shall hold office for a term of three years;

(d) the first College Development Council shall consist of not more than eleven members, who shall be nominated by the Central Government and they shall hold office for a term of three years;

(e) the first Academic Council shall consist of not more than twenty-one members, who shall be nominated by the Central Government and they shall hold office for a term of three years:

Provided that if any vacancy occurs in the above offices or authorities, the same shall be filled by appointment or nomination, as the case may be, by the Central Government, and the person so appointed or nominated shall hold office for so long as the officer or member in whose place he is appointed or nominated would have held office, if such vacancy had not occurred.



## THE SCHEDULE

(See section 31)

## THE STATUTES OF THE UNIVERSITY

The  
Chancellor.

1. (1) The Chancellor shall be appointed by the Visitor from a panel of not less than three persons recommended by the Executive Council from amongst persons of eminence in the academic or public life of the country:

Provided that if the Visitor does not approve of any of the persons so recommended, he may call for fresh recommendations from the Executive Council.

(2) The Chancellor shall hold office for a term of five years and shall be eligible for re-appointment:

Provided that notwithstanding the expiry of his term of office, the Chancellor shall continue to hold office until his successor enters upon his office.

The Vice-  
Chancellor.

2. (1) The Vice-Chancellor shall be appointed by the Visitor from a panel of not less than three persons who shall be recommended by a Committee as constituted under clause (2):

Provided that if the Visitor does not approve of any of the persons included in the panel, he may call for a fresh panel.

(2) The Committee referred to in clause (1) shall consist of three persons, out of whom two shall be nominated by the Executive Council and one by the Visitor and the nominee of the Visitor shall be the convener of the Committee:

Provided that none of whom shall be an employee of the University or a member of the Executive Council, Academic Council or member of any authority of the University or connected with an institution associated with the University.

(3) The Vice-Chancellor shall be a whole-time salaried officer of the University.

(4) The Vice-Chancellor shall hold office for a term of five years from the date on which he enters upon his office, or until he attains the age of sixty-five years, whichever is earlier, and he shall not be eligible for re-appointment:

Provided that notwithstanding the expiry of the said period of five years, he shall continue in office until his successor is appointed and enters upon his office:

Provided further that the Visitor may direct any Vice-Chancellor after his term has expired, to continue in office for such period, not exceeding a total period of one year, as may be specified by him.

(5) The emoluments and other conditions of service of the Vice-Chancellor shall be as follows:—

(i) the Vice-Chancellor shall be paid a monthly salary of Rs. 25,000 (fixed) per month and allowances other than house rent allowance, at the rates fixed by the Central Government from time to time, and he shall be entitled, without payment of rent, to use a furnished residence throughout his term of office and no charge shall fall on the Vice-Chancellor in respect of the maintenance of such residence. He would be entitled to free use of University Car;

(ii) the Vice-Chancellor shall be entitled to such terminal benefits and allowances as may be fixed by the Executive Council with the approval of the Visitor from time to time:

Provided that where an employee of the University or a College or an Institution maintained by it, or of any other University or any Institution maintained by or affiliated to such other University, is appointed as the Vice-Chancellor, he may be allowed to

continue to contribute to any provident fund of which he is a member and the University shall contribute to the account of such person in that provident fund at the same rate at which the person had been contributing immediately before his appointment as the Vice-Chancellor:

Provided further that where such employee had been a member of any pension scheme, the University shall make the necessary contribution to such scheme;

(iii) the Vice-Chancellor shall be entitled to travelling allowances at such rates as may be fixed by the Executive Council;

(iv) the Vice-Chancellor shall be entitled to leave on full pay at the rate of thirty days in a calendar year and the leave shall be credited to his account in advance in two half-yearly instalments of fifteen days each on the first day of January and first day of July every year:

Provided that if the Vice-Chancellor assumes or relinquishes charge of the office of the Vice-Chancellor during the currency of a half year, the leave shall be credited proportionately at the rate of two and-a-half days for each completed month of service;

(v) in addition to the leave referred to in sub-clause (iv), the Vice-Chancellor shall also be entitled to half pay leave at the rate of twenty days for each completed year of service and this half pay leave may also be availed of as commuted leave on full pay on medical certificate:

Provided that when commuted leave is availed of, twice the amount of half pay leave shall be debited against half pay leave due.

(6) If the office of the Vice-Chancellor becomes vacant due to death, resignation or otherwise, or if he is unable to perform his duties due to ill health or any other cause, the senior-most Pro-Vice-Chancellor shall perform the duties of the Vice-Chancellor:

Provided that if the Pro-Vice-Chancellor is not available, the senior-most Professor shall perform the duties of the Vice-Chancellor until a new Vice-Chancellor assumes office or until the existing Vice-Chancellor resumes to the duties of his office, as the case may be.

3. (1) The Vice-Chancellor shall be *ex officio* Chairman of the Executive Council, the Academic Council, and the Finance Committee and shall, in the absence of the Chancellor, preside at the convocations held for conferring degrees, and at meetings of the Court.

Powers and duties of Vice-Chancellor.

(2) The Vice-Chancellor shall be entitled to be present at and address any meeting of any authority or other body of the University.

(3) It shall be the duty of the Vice-Chancellor to see that this Act, the Statutes, the Ordinances and the Regulations are duly observed and he shall have all the powers necessary to ensure such observance.

(4) The Vice-Chancellor shall exercise control over the affairs of the University and shall give effect to the decisions of all the authorities of the University.

(5) The Vice-Chancellor shall have all the powers necessary for the proper maintenance of discipline in the University and he may delegate any such powers to such person or persons as he deems fit.

(6) The Vice-Chancellor shall have the power to convene or cause to be convened the meetings of the Executive Council, the Academic Council, the Planning Board and the Finance Committee.

4. (1) Every Pro-Vice-Chancellor shall be appointed by the Executive Council on the recommendation of the Vice-Chancellor:

The Pro-Vice-Chancellor.

Provided that where the recommendation of the Vice-Chancellor is not accepted by the Executive Council, the matter shall be referred to the Visitor who may either appoint the

person recommended by the Vice-Chancellor or ask the Vice-Chancellor to recommend another person to the Executive Council:

Provided further that the Executive Council may, on the recommendation of the Vice-Chancellor, appoint a Professor to discharge the duties of a Pro-Vice-Chancellor in addition to his own duties as a Professor.

(2) The term of office of a Pro-Vice-Chancellor shall be such as may be decided by the Executive Council but it shall not in any case exceed five years or until the expiration of the term of office of the Vice-Chancellor, whichever is earlier:

Provided that a Pro-Vice-Chancellor whose term of office has expired shall be eligible for reappointment:

Provided further that, in any case, a Pro-Vice-Chancellor shall retire on attaining the age of sixty-five years:

Provided also that the Pro-Vice-Chancellor shall, while discharging the duties of the Vice-Chancellor under clause (6) of Statute 2, continue in office notwithstanding the expiration of his term of office as Pro-Vice-Chancellor, until a new Vice-Chancellor or the existing Vice-Chancellor, as the case may be, assumes office:

Provided also that when the office of the Vice-Chancellor becomes vacant and there is no Pro-Vice-Chancellor to perform the functions of the Vice-Chancellor, the Executive Council may appoint a Pro-Vice-Chancellor and the Pro-Vice-Chancellor so appointed, shall cease to hold office as such as soon as the Vice-Chancellor is appointed and enters upon his office.

(3) The emoluments and other terms and conditions of service of a Pro-Vice-Chancellor shall be such as may be prescribed by the Ordinances,

(4) A Pro-Vice-Chancellor shall assist the Vice-Chancellor in respect of such matters as may be specified by the Vice-Chancellor in this behalf, from time to time, and shall also exercise such powers and perform such duties as may be assigned or delegated to him by the Vice-Chancellor.

Deans of  
Faculties.

5. (1) Every Dean of a Faculty shall be appointed by the Vice-Chancellor from amongst the Professors in the Faculty for a period of three years and he shall be eligible for reappointment:

Provided that a Dean on attaining the age of sixty-two years shall cease to hold office as such:

Provided further that if at any time there is no Professor in a Faculty, the Vice-Chancellor, or a Dean authorised by the Vice-Chancellor in this behalf, shall exercise the powers of the Dean of a Faculty.

(2) When the office of the Dean is vacant or when the Dean is, by reason of illness, absence or any other cause, unable to perform duties of his office, the duties of the office shall be performed by such person as the Vice-Chancellor may appoint for the purpose.

(3) The Dean shall be the Head of the Faculty and shall be responsible for the conduct and maintenance of the standards of teaching and research in the Faculty and shall have such other functions as may be prescribed by the Ordinances.

(4) The Dean shall have the right to be present and to speak at any meeting of the Committees of the Faculty, as the case may be, but shall not have the right to vote thereat unless he is a member thereof.

The Registrar.

6. (1) The Registrar shall be appointed by the Executive Council on the recommendation of a Selection Committee constituted for the purpose and shall be a whole-time salaried officer of the University.

(2) He shall be appointed for a term of five years and shall be eligible for reappointment.

(3) The emoluments and other terms and conditions of service of the Registrar shall be such as may be prescribed by the Ordinances:

Provided that the Registrar shall retire on attaining the age of sixty-two years:

Provided further that a Registrar shall, notwithstanding his attaining the age of sixty-two years, continue in office until his successor is appointed and enters upon his office or until the expiry of a period of one year, whichever is earlier.

(4) When the office of the Registrar is vacant or when the Registrar is, by reason of illness, absence or any other cause unable to perform the duties of his office, the duties of the office shall be performed by such person as the Vice-Chancellor may appoint for the purpose.

(5) (a) The Registrar shall have power to take disciplinary action against such of the employees, excluding teachers and academic staff, as may be specified in the order of the Executive Council and to suspend them pending inquiry, to administer warnings to them or to impose upon them the penalty of censure or the withholding of increment:

Provided that no such penalty shall be imposed unless the person concerned has been given a reasonable opportunity of showing cause against the action proposed to be taken in regard to him.

(b) An appeal shall lie to the Vice-Chancellor against any order of the Registrar imposing any of the penalties specified in sub-clause (a).

(c) In a case where the inquiry discloses that a punishment beyond the power of the Registrar is called for, the Registrar shall, upon the conclusion of the inquiry, make a report to the Vice-Chancellor along with his recommendations:

Provided that an appeal shall lie to the Executive Council against an order of the Vice-Chancellor imposing any penalty.

(6) The Registrar shall be *ex officio* Secretary of the Court, the Executive Council and the Academic Council, but shall not be deemed to be a member of any of these authorities.

(7) It shall be the duty of the Registrar—

(a) to be the custodian of the records, the common seal and such other property of the University as the Executive Council shall commit to his charge;

(b) to issue all notices convening meetings of the Court, the Executive Council, the Academic Council and of any Committee appointed by those authorities;

(c) to keep the minutes of all the meetings of the Court, the Executive Council, the Academic Council and of any Committee appointed by those authorities;

(d) to conduct the official correspondence of the Court, the Executive Council and the Academic Council;

(e) to supply to the Visitor and the Chancellor copies of the agenda of the meetings of the authorities of the University as soon as they are issued and the minutes of such meetings;

(f) to represent the University in suits or proceedings by or against the University, sign powers-of-attorney and verify pleadings or depute his representative for the purpose; and

(g) to perform such other duties as may be specified in the Statutes, the Ordinances or the Regulations or as may be required from time to time, by the Executive Council or assigned to by the Vice-Chancellor.

7. (1) The Finance Officer shall be appointed by the Executive Council on the recommendations of a Selection Committee constituted for the purpose and he shall be a whole-time salaried officer of the University. The Finance Officer.



(2) The Finance Officer shall be appointed for a term of five years and shall be eligible for reappointment.

(3) The emoluments and other terms and conditions of service of the Finance Officer shall be such as may be prescribed by the Ordinances:

Provided that a Finance Officer shall retire on attaining the age of sixty-two years:

Provided further that the Finance Officer shall, notwithstanding his attaining the age of sixty-two years, continue in office until his successor is appointed and enters upon his office or until the expiry of a period of one year, whichever is earlier.

(4) When the office of the Finance Officer is vacant or when the Finance Officer is by reason of illness, absence or any other cause unable to perform the duties of his office, the duties of the office shall be performed by such person as the Vice-Chancellor may appoint for the purpose.

(5) The Finance Officer shall be *ex officio* Secretary of the Finance Committee but shall not be deemed to be a member of such Committee.

(6) The Finance Officer shall—

(a) exercise general supervision over the funds of the University and shall advise it as regards its financial policy; and

(b) perform such other financial functions as may be assigned to him by the Executive Council or as may be prescribed by the Statutes, the Ordinances or the Regulations.

(7) Subject to the control of the Executive Council, the Finance Officer shall—

(a) hold and manage the property and investments of the University including trust and endowed property;

(b) ensure that the limits fixed by the Executive Council for recurring and non-recurring expenditure for a year are not exceeded and that all moneys are expended on the purpose for which they are granted or allotted;

(c) be responsible for the preparation of annual accounts and the budget of the University and for their presentation to the Executive Council;

(d) keep a constant watch on the state of the cash and balances and on the state of investment;

(e) watch the progress of the collection of revenue and advise on the methods of collection employed;

(f) ensure that the registers of buildings, land, furniture and equipment are maintained up-to-date and that stock-checking are conducted, of equipment and other consumable materials in all offices, Centres, Specialised Laboratories, Colleges and Institutions maintained by the University;

(g) bring to the notice of the Vice-Chancellor unauthorised expenditure and other financial irregularities and suggest disciplinary action against persons at fault; and

(h) call for from any office, Centre, Laboratory, College or Institution maintained by the University any information that he may consider necessary on the performance of his duties.

(8) Any receipt given by the Finance Officer or the person or person duly authorised in this behalf by the Executive Council for any money payable to the University shall be sufficient discharge for payment of such money.

8. (1) The Controller of Examinations shall be appointed by the Executive Council on the recommendations of a Selection Committee constituted for the purpose and he shall be a whole-time salaried officer of the University.

The  
Controller of  
Examinations.

(2) The Controller of Examinations shall be appointed for a term of five years and shall be eligible for re-appointment.

(3) The emoluments and other terms and conditions of service of the Controller of Examinations shall be such as may be prescribed by the Executive Council from time to time:

Provided that the Controller of Examinations shall retire on attaining the age of sixty-two years:

Provided further that the Controller of Examinations shall, notwithstanding his attaining the age of sixty-two years, continue in office until his successor is appointed and enters upon his office or until the expiry of a period of one year, whichever is earlier.

(4) When the office of the Controller of Examinations is vacant or when the Controller of Examinations is, by reason of illness, absence or any other cause unable to perform the duties of his office, the duties of the office shall be performed by such person as the Vice-Chancellor may appoint for the purpose.

(5) The Controller of Examinations shall arrange for and superintend the examinations of the University in the manner prescribed by the Ordinances.

9. (1) The Librarian shall be appointed by the Executive Council on the recommendations of the Selection Committee constituted for the purpose and he shall be a whole-time officer of the University.

The Librarian.

(2) The Librarian shall exercise such powers and perform such duties as may be assigned to him by the Executive Council.

10. (1) An annual meeting of the Court shall be held on a date to be fixed by the Executive Council unless some other date has been fixed by the Court in respect of any year.

Meetings of  
Court.

(2) At an annual meeting of the Court, a report on the working of the University during the previous year, together with a statement of the receipts and expenditure, the balance-sheet as audited, and the financial estimates for the next year shall be presented.

(3) A copy of the statement of receipts and expenditure, the balance-sheet and the financial estimates referred to in clause (2) shall be sent to every member of the Court at least seven days before the date of the annual meeting.

(4) Special meetings of the Court may be convened by the Executive Council or the Vice-Chancellor or if there is no Vice-Chancellor, the Pro-Vice-Chancellor or if there is no Pro-Vice-Chancellor, by the Registrar.

(5) Eleven members of the Court shall form a quorum for a meeting of the Court.

11. Seven members of the Executive Council shall form a quorum for a meeting of the Executive Council.

Quorum for  
meeting of  
Executive  
Council.

12. (1) The Executive Council shall have the power of management and administration of the revenue and property of the University and the conduct of all administrative affairs of the University not otherwise provided for.

Powers and  
functions of  
Executive  
Council.

(2) Subject to the provisions of this Act, the Statutes and the Ordinances, the Executive Council shall, in addition to all other powers, vested in it, have the following powers, namely:—

(i) to create teaching and academic posts, to determine the number and emoluments of such posts and to define the duties and conditions of service of Professors, Associate Professors, Assistant Professors and other academic staff and Directors of Colleges and Institutions maintained by the University:

Provided that no action shall be taken by the Executive Council in respect of the number, qualifications and emoluments of teachers and academic staff otherwise than after consideration of the recommendations of the Academic Council;

(ii) to appoint such Professors, Associate Professors, Assistant Professors and other academic staff, as may be necessary, and the Directors of Colleges and Institutions maintained by the University on the recommendation of the Selection Committee constituted for the purpose and to fill-up the temporary vacancies therein;

(iii) to create administrative, ministerial and other necessary posts and to make appointments thereto in the manner prescribed by the Ordinances;

(iv) to grant leave of absence to any officer of the University other than the Chancellor and the Vice-Chancellor, and to make necessary arrangements for the discharge of the functions of such officer during his absence;

(v) to regulate and enforce discipline among employees in accordance with the Statutes and the Ordinances;

(vi) to manage and regulate the finances, accounts, investments, property, business and all other administrative affairs of the University, and for that purpose to appoint such agents as it may think fit;

(vii) to fix limits on the total recurring and the total non-recurring expenditure for a year on the recommendations of the Finance Committee;

(viii) to invest any money belonging to the University, including any unapplied income, in such stocks, funds, share or securities, from time to time, as it may think fit or in the purchase of immovable property in India, with the like powers of varying such investment from time to time;

(ix) to transfer or accept transfers of any movable or immovable property on behalf of the University;

(x) to provide buildings, premises, furniture and apparatus and other means needed for carrying on the work of the University;

(xi) to enter into, vary, carry out and cancel contracts on behalf of the University;

(xii) to entertain, adjudicate upon, and if thought fit, to redress any grievances of the employees and students of the University who may, for any reason, feel aggrieved;

(xiii) to appoint examiners and moderators and, if necessary, to remove them, and to fix their fees, emoluments and travelling and other allowances, after consulting the Academic Council;

(xiv) to select a common seal for the University and provide for the custody and use of such seal;

(xv) to make such special arrangements as may be necessary for the residence of women students;

(xvi) to delegate any of its powers to the Vice-Chancellor, the Pro-Vice-Chancellor, the Directors, the Registrar or the Finance Officer or such other employee or authority of the University or to a committee appointed by it as it may deem fit;

(xvii) to institute fellowships, scholarships, studentships, medals and prizes; and to receive donations from the members of the general public and institutions, with due acknowledgement for establishing a Chair by contributing at least rupees one crore, in the name of the donor or in memory of any person desired; for creating foundations, not below rupees one crore in the name of the donor or in memory of any person desired; and for bearing the cost of any building or complex to the tune of not below rupees one crore in the name of the donor or in memory of any person desired;



(xviii) to provide for the appointment of Visiting Professors, Emeritus Professors; Consultants and Scholars and determine the terms and conditions of such appointments; and

(xix) to exercise such other powers and perform such other duties as may be conferred or imposed on it by the Act or the Statutes.

13. Nine members of the Academic Council shall form a quorum for a meeting of the Academic Council.

Quorum of meeting of Academic Council.

14. Subject to the provisions of the Act, the Statutes and the Ordinances, the Academic Council shall, in addition to all other powers vested in it, have the following powers, namely:—

Powers and functions of Academic Council.

(a) to report on any matter referred or delegated to it by the Court or the Executive Council;

(b) to make arrangements through Ordinances for the instruction and examination of persons other than those enrolled in the University;

(c) to promote research within the University and to require from time to time, reports on such research;

(d) to consider proposals submitted by the Faculties;

(e) to appoint committees for admission to the University;

(f) to recognise diplomas or degrees and other Universities and Institutions and to determine their equivalence in relation to the diplomas and degrees of the University;

(g) to fix, subject to any conditions accepted by the Executive Council, the time mode and conditions of competition for fellowship, scholarships and other prizes, and to award the same;

(h) to make recommendations to the Executive Council in regard to the appointment of examiners and if necessary, their removal and the fixation of their fees, emoluments and travelling and other expenses;

(i) to make arrangements for the conduct of examinations and to fix dates for holding them;

(j) to declare result of the various examinations, or to appoint committees or officers to do so and to make recommendations regarding the conferment or grant of degrees, honours, diplomas, titles and marks of honour;

(k) to award stipends, scholarships, medals and prizes and to make other awards in accordance with the Regulations and such other conditions as may be attached to the awards;

(l) to publish lists of prescribed or recommended text books and to publish syllabus or the prescribed courses of study;

(m) to prepare such forms and registers as are, from time to time, prescribed by Regulations; and

(n) to perform, in relation to academic matters, all such duties and to do all such acts as may be necessary, for proper carrying out of the provisions of this Act and the Regulations.

15. (1) The University shall have such Faculties as may be specified in the Statutes.

Faculties and Departments.

(2) Every Faculty shall have a Faculty Board and the members of the first Faculty Board shall be nominated by the Executive Council for a period of three years.



(3) The composition, powers and functions of a Faculty Board shall be prescribed by the Ordinances.

(4) The conduct of the meetings of a Faculty Board and the quorum required for such meetings shall be prescribed by the Ordinances.

(5) (a) Every Faculty shall consist of such Departments as may be assigned to it by the Ordinances:

Provided that the Executive Council may, on the recommendation of the Academic Council, establish Centres of Studies to which may be assigned such teachers of the University as the Executive Council may consider necessary.

(b) Each Department shall consist of the following members, namely:—

- (i) Teachers of the Department;
- (ii) Persons conducting research in the Department;
- (iii) Dean of the School;
- (iv) Honorary Professors, if any, attached to the Department; and
- (v) Such other persons as may be members of the Department in accordance with the provisions of the Ordinances.

Board of  
Studies.

16. (1) Each Department shall have a Board of Studies.

(2) The constitution of the Board of Studies and the term of office of its members shall be prescribed by the Ordinances.

(3) Subject to the overall control and supervision of the Academic Council, the functions of a Board of Studies shall be to approve subjects for research for various degrees and other requirements of research degrees and to recommend to the concerned School Board in the manner prescribed by the Ordinances—

- (a) courses of studies and appointment of examiners for courses, but excluding research degrees;
- (b) appointment of supervisors for research; and
- (c) measures for the improvement of the standard of teaching and research;

Provided that the above functions of a Board of Studies shall, during the period of three years immediately after the commencement of the Act, be performed by the Department.

The Finance  
Committee.

17. (1) The Finance Committee shall consist of the following members, namely:—

- (i) the Vice-Chancellor;
- (ii) the Pro-Vice-Chancellor;
- (iii) one person to be nominated by the Court;
- (iv) three persons to be nominated by the Executive Council, out of whom at least one shall be a member of the Executive Council; and
- (v) three persons to be nominated by the Visitor.

(2) Five members of the Finance Committee shall form the quorum for a meeting of the Finance Committee.

(3) All the members of the Finance Committee, other than *ex officio* members, shall hold office for a term of three years.

(4) A member of the Finance Committee shall have the right to record a minute of dissent if he does not agree with any decision of the Finance Committee.

(5) The Finance Committee shall meet at least thrice every year to examine the accounts and to scrutinise proposals for expenditure.

(6) All proposals relating to creation of posts, and those items which have not been included in the Budget, shall be examined by the Finance Committee before they are considered by the Executive Council.

(7) The annual accounts and the financial estimates of the University prepared by the Finance Officer shall be laid before the Finance Committee for consideration and comments and thereafter submitted to the Executive Council for approval.

(8) The Finance Committee shall recommend limits for the total recurring expenditure and the total non-recurring expenditure for the year, based on the income and resources of the University (which, in the case of productive works, may include the proceeds of loans).

18. (1) There shall be Selection Committees for making recommendations to the Executive Council for appointment to the posts of Professor, Reader, Lecturer, Registrar, Finance Officer, Librarian and Principals of Colleges and Institutions maintained by the University.

The Selection Committee.

(2) The Selection Committee for appointment to the posts specified in column 1 of the Table below shall consist of the Vice-Chancellor, a nominee of the Visitor and the persons specified in the corresponding entry in column 2 of the said Table:

TABLE

1	2
Professor	<p>(i) The Dean of the Faculty.</p> <p>(ii) The Head of the Department, if he is a Professor.</p> <p>(iii) Three persons not in the service of the University, nominated by the Executive Council, out of a panel of names recommended by the Academic Council for their special knowledge of, or interest in, the subject with which the Professor is concerned.</p>
Reader/Lecturer	<p>(i) The Head of the Department.</p> <p>(ii) One Professor nominated by the Vice-Chancellor.</p> <p>(iii) Two persons not in the service of the University, nominated by the Executive Council, out of a panel of names recommended by the Academic Council for their special knowledge of, or interest in, the subject with which the Reader/Lecturer is concerned.</p>
Registrar/Finance Officer	<p>(i) Two members of the Executive Council nominated by it.</p> <p>(ii) One person not in the service of the University nominated by the Executive Council.</p>
Librarian	<p>(i) Two persons not in the service of the University who have special knowledge of the subject of Library Science/Library Administration, nominated by the Executive Council.</p> <p>(ii) One person not in the service of the University, nominated by the Executive Council.</p>
Principal of College or Institution	Three persons not in the service of the University of whom two shall be nominated by the Executive

1

2

Council and one by the Academic Council for their special knowledge of, or interest in, a subject in which instruction is being provided by the College or Institution.

NOTE 1.—Where the appointment is being made for an inter-disciplinary project, the head of the project shall be deemed to be the Head of the Department concerned.

NOTE 2.—The Professor to be nominated by the Vice-Chancellor shall be a Professor concerned with the speciality for which the selection is being made and the Vice-Chancellor shall consult the Head of the Department and the Dean of School before nominating the Professor.

(3) The Vice-Chancellor, or in his absence the Pro-Vice-Chancellor, shall convene and preside at the meeting of the Selection Committee:

—Provided that the meeting of the Selection Committee shall be fixed after prior consultation with, and subject to the convenience of Visitor's nominee and the experts nominated by the Executive Council:

Provided further that the proceedings of the Selection Committee shall not be valid unless,—

(a) where the number of Visitor's nominee and the persons nominated by the Executive Council is four in all, at least three of them attend the meeting; and

(b) where the number of Visitor's nominee and the persons nominated by the Executive Council is three in all, at least two of them attend the meeting.

(4) The procedure to be followed by the Selection Committee shall be laid down in the Ordinances.

(5) If the Executive Council is unable to accept the recommendations made by the Selection Committee, it shall record its reasons and submit the case to the Visitor for final orders.

(6) Appointments to temporary posts shall be made in the manner indicated below:—

(i) if the temporary vacancy is for duration longer than one academic session, it shall be filled on the advice of the Selection Committee in accordance with the procedure indicated in the foregoing clauses:

Provided that if the Vice-Chancellor is satisfied that in the interests of work it is necessary to fill the vacancy, the appointment may be made on a purely temporary basis on the advice of a local Selection Committee referred to in sub-clause (ii) for a period not exceeding six months;

(ii) if the temporary vacancy is for a period less than a year, an appointment to such vacancy shall be made on the recommendation of a local Selection Committee consisting of the Dean of the Faculty concerned, the Head of the Department and a nominee of the Vice-Chancellor:

Provided that if the same person holds the offices of the Dean and the Head of the Department, the Selection Committee may contain two nominees of the Vice-Chancellor.

Provided further that in the case of sudden casual vacancies of teaching posts caused by death or any other reason, the Dean may, in consultation with the Head of the Department concerned, make a temporary appointment for a month and report to the Vice-Chancellor and the Registrar about such appointment;

(iii) no teacher appointed temporarily shall, if he is not recommended by a regular Selection Committee for appointment under the Statutes, be continued in service

on such temporary employment, unless he is subsequently selected by a local Selection Committee or a regular Selection Committee, for a temporary or permanent appointment, as the case may be.

19. (1) Notwithstanding anything contained in Statute 18, the Executive Council may invite a person of high academic distinction and professional attainments to accept a post of Professor or any other equivalent academic post in the University on such terms and conditions as it deems fit and on the person agreeing to do so appoint him to the post.

Special mode  
of  
appointment.

(2) The Executive Council may appoint a teacher or any other academic staff working in any other University or organisation for undertaking a joint project in accordance with the manner laid down in the Ordinances.

20. The Executive Council may appoint a person selected in accordance with the procedure laid down in Statute 18 for a fixed tenure on such terms and conditions as it deems fit.

Appointment  
for fixed  
tenure.

21. (1) The qualifications of recognised teachers shall be such as may be prescribed by the Ordinances.

Recognised  
teachers.

(2) All applications for the recognition of teachers shall be made in such manner as may be laid down by the Ordinances.

(3) No teacher shall be recognised as a teacher except on the recommendation of a Selection Committee constituted for the purpose in the manner laid down in the Ordinances.

(4) The period of recognition of a teacher shall be determined by the Ordinances made in that behalf.

(5) The Academic Council may, by a special resolution passed by a majority of not less than two-thirds of the members present and voting, withdraw recognition from a teacher:

Provided that no such resolution shall be passed until notice in writing has been given to the person concerned calling upon him to show cause, within such time as may be specified in the notice, why such resolution should not be passed and until his objections, if any, and any evidence he may produce in support of them have been considered by the Academic Council.

22. (1) An authority of the University may appoint as many standing or special Committees as it may deem fit, and may appoint to such Committees persons who are not members of such authority.

Committees.

(2) A Committee appointed under clause (1) may deal with any subject delegated to it subject to subsequent confirmation by the authority appointing it.

23. (1) All the teachers and other academic staff of the University shall, in the absence of any agreement to the contrary, be governed by the terms and conditions of service and code of conduct as are specified in the Statutes, the Ordinances and the Regulations.

Terms and  
conditions of  
service and  
code of  
conduct of  
teachers, etc.

(2) The emoluments of members of the academic staff shall be such as may be prescribed by the Ordinances.

(3) Every teacher and member of the academic staff of the University shall be appointed on a written contract, the form of which shall be prescribed by the Ordinances.

(4) A copy of every contract referred to in clause (3) shall be deposited with the Registrar.

24. (1) All the employees of the University, other than the teachers and other academic staff shall, in the absence of any contract to the contrary, be governed by the terms and conditions of service and code of conduct as are specified in the Statutes, the Ordinances and the Regulations.

Terms and  
conditions of  
service and  
code of  
conduct of  
other  
employees.



(2) The manner of appointment and emoluments of employees, other than the teachers and other academic staff, shall be such as may be prescribed by the Ordinances.

Seniority list.

25. (1) Whenever, in accordance with the Statutes, any person is to hold an office or be a member of an authority of the University by rotation according to seniority, such seniority shall be determined according to the length of continuous service of such person in his grade and in accordance with such other principles as the Executive Council may, from time to time, prescribe.

(2) It shall be the duty of the Registrar to prepare and maintain in respect of each class of persons to whom the provisions of these Statutes apply, a complete and up-to-date seniority list in accordance with the provisions of clause (1).

(3) If two or more persons have equal length of continuous service in a particular grade or the relative seniority of any person or persons is otherwise in doubt, the Registrar may, on his own motion and shall, at the request of any such person, submit the matter to the Executive Council whose decision thereon shall be final.

Removal of employees of University.

26. (1) Where there is an allegation of misconduct against a teacher, a member of the academic staff or other employee of the University, the Vice-Chancellor, in the case of the teacher or a member of the academic staff, and the authority competent to appoint (hereinafter referred to as the appointing authority) in the case of other employee may, by order in writing, place such teacher, member of the academic staff or other employee, as the case may be, under suspension and shall forthwith report to the Executive Council the circumstances in which the order was made:

Provided that the Executive Council may, if it is of the opinion, that the circumstances of the case do not warrant the suspension of the teacher or a member of the academic staff, revoke such order.

(2) Notwithstanding anything contained in the terms of the contract of appointment or of any other terms and conditions of service of the employees, the Executive Council in respect of teachers and other academic staff, and the appointing authority in respect of other employees, shall have the power to remove a teacher or a member of the academic staff or other employee, as the case may be, on grounds of misconduct.

(3) Save as aforesaid, the Executive Council, or as the case may be, the appointing authority, shall not be entitled to remove any teacher, member of the academic staff or other employee except for a good cause and after giving three months' notice or on payment of three months' salary in lieu thereof.

(4) No teacher, member of the academic staff or other employee shall be removed under clause (2) or clause (3) unless he has been given a reasonable opportunity of showing cause against the action proposed to be taken in regard to him.

(5) The removal of a teacher, member of the academic staff or other employee shall take effect from the date on which the order of removal is made:

Provided that where the teacher, member of the academic staff or other employee is under suspension at the time of his removal, such removal shall take effect from the date on which he was placed under suspension.

(6) Notwithstanding anything contained in the foregoing provisions of this Statute, a teacher, member of the academic staff or other employee may resign,—

(a) if he is a permanent employee, only after giving three months' notice in writing to the Executive Council or the appointing authority, as the case may be, or by paying three months' salary in lieu thereof;

(b) if he is not a permanent employee, only after giving one month's notice in writing to the Executive Council or, as the case may be, the appointing authority or by paying one month's salary in lieu thereof.

Provided that such resignation shall take effect only on the date on which the resignation is accepted by the Executive Council or the appointing authority, as the case may be.

27. (1) The Executive Council may, on the recommendation of the Academic Council and by a resolution passed by a majority of not less than two-thirds of the members present and voting, make proposals to the Visitor for the conferment of honorary degrees:

Honorary  
degrees.

Provided that in case of emergency, the Executive Council may, on its own motion, make such proposals.

(2) The Executive Council may, by a resolution passed by a majority of not less than two-thirds of the members present and voting, withdraw, with the previous sanction of the Visitor, any honorary degree conferred by the University.

28. The Executive Council may, by a special resolution passed by a majority of not less than two-thirds of the members present and voting, withdraw any degree or academic distinction conferred on, or any certificate or diploma granted to, any person by the University for good and sufficient cause:

Withdrawal of  
degrees, etc.

Provided that no such resolution shall be passed until a notice in writing has been given to that person calling upon him to show cause within such time as may be specified in the notice, why such a resolution should not be passed and until his objections, if any, and any evidence he may produce in support of them, have been considered by the Executive Council.

29. (1) All powers relating to the maintenance of discipline and disciplinary action in relation to students of the University shall vest in the Vice-Chancellor.

Maintenance  
of discipline  
among  
students of  
University.

(2) The Vice-Chancellor may delegate all or any of his powers referred to in clause (1), as he deems proper, to a Pro-Vice-Chancellor and to such other officers as he may specify in this behalf.

(3) Without prejudice to the generality of his powers relating to the maintenance of discipline and taking such action, as may seem to him appropriate for the maintenance of discipline, the Vice-Chancellor may, in exercise of his powers, by order, direct that any student or students be expelled, or rusticated, for a specified period or be not admitted to a course or courses of study in a College, Institution or Department or a Faculty of the University for a stated period, or be punished with fine for an amount to be specified in the order, or be debarred from taking an examination or examinations conducted by the University, College, Institution or Department or a Faculty for one or more years, or that the results of the student or students concerned in the examination or examinations in which he or they have appeared be cancelled.

(4) The Principals of Colleges and Institutions, Deans of Faculties and Heads of teaching Departments in the University shall have the authority to exercise all such disciplinary powers over the students in their respective Colleges, Institutions, Faculties and teaching Departments in the University, as may be necessary for the proper conduct of such Colleges, Institutions, Faculties and teaching Departments.

(5) Without prejudice to the powers of the Vice-Chancellor, the Principals and other persons specified in clause (4), detailed rules of discipline and proper conduct shall be made by the University. The Principals of Colleges, Institutions, Deans of Faculties and Heads of teaching Departments in the University may also make the supplementary rules as they deem necessary to the aforesaid purpose.

(6) At the time of admission, every student shall be required to sign a declaration to the effect that he submits himself to the disciplinary jurisdiction of the Vice-Chancellor and other authorities of the University.

Maintenance  
of discipline  
among  
students of  
Colleges, etc.

Admission of  
Colleges, etc.,  
to privileges  
of University.

**30.** All powers relating to discipline and disciplinary action in relation to students of a College or an Institution not maintained by the University, shall vest in the Principal of the College or Institution, as the case may be, in accordance with the procedure prescribed by the Ordinances.

**31. (1)** Colleges and other Institutions situated within the jurisdiction of the University may be admitted to such privileges of the University as the Executive Council and the College Development Council may decide on the following conditions, namely:—

(i) every such College or Institution shall have a regularly constituted Governing Body, consisting of not more than fifteen persons approved by the Executive Council and including among others, two teachers of the University to be nominated by the Executive Council and three representatives of the teaching staff of whom the Principal of the College or Institution shall be one. The procedure for appointment of members of the Governing Body and other matters affecting the management of a College or an Institution shall be prescribed by the Ordinances;

Provided that the said condition shall not apply in the case of Colleges and Institutions maintained by the Government which shall, however, have an Advisory Committee consisting of not more than fifteen persons which shall consist of among others, three teachers including the Principal of the College or Institution, and two teachers of the University nominated by the Executive Council;

(ii) every such College or Institution shall satisfy the Executive Council and the College Development Council on the following matters, namely:—

(a) the suitability and adequacy of its accommodation and equipment for teaching;

(b) the qualifications and adequacy of its teaching staff and the conditions of their service;

(c) the arrangements for the residence, welfare, discipline and supervision of students;

(d) the adequacy of financial provision made for the continued maintenance of the College or Institution; and

(e) such other matters as are essential for the maintenance of the standards of University education;

(iii) no College or Institution shall be admitted to any privileges of the University except on the recommendation of the Academic Council made after considering the report of a Committee of Inspection appointed for the purpose by the Academic Council;

(iv) Colleges and Institutions desirous of admission to any privileges of the University shall be required to intimate their intention to do so in writing so as to reach the Registrar not later than the 15th August, preceding the year from which permission applied for is to have effect;

(v) a College or an Institution shall not, without the previous permission of the Executive Council, College Development Council and the Academic Council, suspend instruction in any subject or course of study which it is authorised to teach and teaches.

(2) Appointment to the teaching staff and Principal of Colleges or Institutions admitted to the privileges of the University shall be made in the manner prescribed by the Ordinances:

Provided that nothing in this clause shall apply to Colleges and Institutions maintained by the Government.

(3) The service conditions of the administrative and other non-academic staff of every College or Institution referred to in clause (2) shall be such as may be laid down in the Ordinances:



Provided that nothing in this clause shall apply to Colleges and Institutions maintained by the Government.

(4) Every College or Institution admitted to the privileges of the University shall be inspected at least once in every two academic years by a Committee appointed by the Academic Council, and the report of the Committee shall be submitted to the Academic Council, which shall forward the same to the College Development Council and Executive Council with such recommendations as it may deem fit to make.

(5) The College Development Council and the Executive Council, after considering the report and the recommendations, if any, of the Academic Council, shall forward a copy of the report to the Governing Body of the College or Institution with such remarks, if any, as they may deem fit for suitable action.

(6) The Executive Council may, after consulting the College Development Council and Academic Council, withdraw any privileges granted to a College or an Institution, at any time it considers that the College or Institution does not satisfy any of the conditions on the fulfilment of which the College or Institution was admitted to such privileges:

Provided that before any privileges are so withdrawn, the Governing Body of the College or Institution concerned shall be given an opportunity to represent to the Executive Council as to why such action should not be taken.

(7) Subject to the conditions set forth in clause (1), the Ordinances may prescribe—

(i) such other conditions as may be considered necessary; and

(ii) the procedure for the admission of Colleges and Institutions to the privileges of the University and for the withdrawal of those privileges.

32. Convocations of the University for the conferring of degrees or for other purposes shall be held in such manner as may be prescribed by the Ordinances. Convocations.

33. Where no provision is made for a President or Chairman to preside over a meeting of any authority of the University or any Committee of such authority or when the President or Chairman so provided for is absent, the members present shall elect one from among themselves to preside at such meeting. Acting Chairman of meetings.

34. Any member, other than an *ex officio* member, of the Court, the Executive Council, the Academic Council or any other authority of the University or any Committee of such authority may resign by letter addressed to the Registrar and the resignation shall take effect as soon as such letter is received by the Registrar. Resignation.

35. (1) A person shall be disqualified for being chosen as, and for being, a member of any of the authorities of the University,— Disqualification.

(i) if he is of unsound mind; or

(ii) if he is an undischarged insolvent; or

(iii) if he has been convicted by a court of law of an offence involving moral turpitude and sentenced in respect thereof to imprisonment for not less than six months.

(2) If any question arises as to whether a person is or had been subjected to any of the disqualifications mentioned in clause (1), the question shall be referred to the Visitor and his decision shall be final and no other proceedings shall lie in any civil court against such decision.

36. Notwithstanding anything contained in the Statutes, a person who is not ordinarily resident in India shall not be eligible to be an officer of the University or a member of any authority of the University. Residence condition for membership and office.



Membership  
of authorities  
by virtue of  
membership of  
other bodies.

37. Notwithstanding anything contained in the Statutes, a person who holds any post in the University or is a member of any authority or body of the University in his capacity as a member of a particular authority or body or as the holder of a particular appointment shall hold such office or membership only for so long as he continues to be a member of that particular authority or body or the holder of that particular appointment, as the case may be.

Students'  
Council.

38. (1) There shall be constituted in the University, a Students' Council for every academic year, consisting of—

(i) the Dean of Students' Welfare who shall be the Chairman of the Students' Council;

(ii) twenty students to be nominated by the Academic Council on the basis of merit in studies, sports and extra-curricular activities; and

(iii) such number of elected representatives of students as may be specified by the Academic Council;

Provided that any student of the University shall have the right to bring up any matter concerning the University before the Students' Council if so permitted by the Chairman, and he shall have the right to participate in the discussions at any meeting when the matter is taken up for consideration.

(2) The functions of the Students' Council shall be to make suggestions to the appropriate authorities of the University in regard to the programmes of studies, students' welfare and other matters of importance, in regard to the working of the University in general and such suggestions shall be made on the basis of consensus of opinion.

(3) The Students' Council shall meet at least once in an academic year preferably in the beginning of that year.

Ordinances  
how made.

39. (1) The first Ordinances made under sub-section (2) of section 32 may be amended, repealed or added to at any time by the Executive Council in the manner specified below.

(2) No Ordinance in respect of the matters enumerated in sub-section (1) of section 32 shall be made by the Executive Council unless a draft of such Ordinance has been proposed by the Academic Council.

(3) The Executive Council shall not have power to amend any draft of any Ordinance proposed by the Academic Council under clause (2), but may reject the proposal or return the draft to the Academic Council for re-consideration, either in whole or in part, together with any amendment which the Executive Council may suggest.

(4) Where the Executive Council has rejected or returned the draft of an Ordinance proposed by the Academic Council, the Academic Council may consider the question afresh and in case the original draft is reaffirmed by a majority of not less than two-thirds of the members present and voting and more than half the total number of members of the Academic Council, the draft may be sent back to the Executive Council which shall either adopt it or refer it to the Visitor whose decision shall be final.

(5) Every Ordinance made by the Executive Council shall come into effect immediately.

(6) Every Ordinance made by the Executive Council shall be submitted to the Visitor within two weeks from the date of its adoption.

(7) The Visitor shall have the power to direct the University within four weeks of the receipt of the Ordinance to suspend the operation of any such Ordinance and he shall, as soon as possible, inform the Executive Council about his objection to the proposed Ordinance.

(8) The Visitor may, after receiving the comments of the University, either withdraw the order suspending the Ordinance or disallow the Ordinance, and his decision shall be final.



40. (1) The authorities of the University may make Regulations consistent with the Regulations. Act, the Statutes and the Ordinances for the following matters, namely:—

(i) laying down the procedure to be observed at their meetings and the number of members required to form a quorum;

(ii) providing for all matters which are required by the Act, the Statutes or the Ordinances to be prescribed by Regulations;

(iii) providing for all other matters solely concerning such authorities or committees appointed by them and not provided for by the Act, the Statutes or the Ordinances.

(2) Every authority of the University shall make Regulations providing for the giving of notice to the members of such authority of the dates of meetings and of the business to be considered at meetings and for the keeping of a record of the proceedings of meetings.

(3) The Executive Council may direct the amendments in such manner as it may specify, of any Regulation made under the Statutes or the annulment of any such Regulation.

41. Subject to the provisions of the Act and the Statutes, any officer or authority of the University may delegate his or its powers to any other officer or authority or person under his or its respective control and subject to the condition that overall responsibility for the exercise of the powers so delegated shall continue to vest in the officer or authority delegating such powers. Delegation of powers.

Sd/-

DR. K. N. CHATURVEDI,  
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

H. D. VYAS  
Secretary to Government.



सत्यमेव जयते

# The Gujarat Government Gazette

## EXTRAORDINARY

### PUBLISHED BY AUTHORITY

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MONDAY, MARCH 31, 2008/CAITRA 11, 1930

Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

#### PART VI

Acts of Parliament and Ordinances Promulgated by the President.

#### LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 31<sup>st</sup> March, 2008.

No. RPB/12-2008/Act-53--07/E:-The following Act of Parliament is republished for General information:-

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

Legislative Department

New Delhi, the 20<sup>th</sup> December, 2007, Agrahayana 29, 1929 (Sake)

The following Act of Parliament has received the assent of the President on the 20<sup>th</sup> December, 2007, is hereby published for general information:-

#### THE SASHAstra SEEMA BAL ACT, 2007

#### AN ACT

(Act No. 53 of 2007)

[20<sup>th</sup> December, 2007]

*To provide for the constitution and regulation of an armed force of the Union for ensuring the security of the borders of India and for matters connected therewith.*

Be it enacted by Parliament in the Fifty-eighth Year of the Republic of India as follows:—

#### CHAPTER I

#### PRELIMINARY

1. (1) This Act may be called the Sashastra Seema Bal Act, 2007.
- (2) It shall come into force on such date as the Central Government may, by notification, in the Official Gazette, appoint.

Short title and commencement.

2. (1) In this Act, unless the context otherwise requires,—

Definitions.

(a) "active duty", in relation to a person subject to this Act, means any duty as a member of the Force during the period in which such person is attached to, or forms part of, a unit of the Force—

- (i) which is engaged in operations against any enemy, or
- (ii) which is operating at a picket or engaged on patrol or other guard duty along the borders of India, and includes duty by such person during any period

declared by the Central Government by order as a period of active duty with reference to any area in which any person or class of persons subject to this Act may be serving;

(b) "battalion" means a unit of the Force constituted as a battalion by the Central Government;

(c) "civil offence" means an offence which is triable by a criminal court;

(d) "civil prison" means any jail or place used for the detention of any criminal prisoner under the Prisons Act, 1894, or under any other law for the time being in force; 9 of 1894.

(e) "commanding officer" means a Commandant or any officer for the time being in command of the unit or any separate portion of the Force to which such person belongs or is attached to and discharging his functions under this Act or the rules made thereunder;

(f) "criminal court" means a court of ordinary criminal justice in any part of India constituted under the Code of Criminal Procedure, 1973; 2 of 1974.

(g) "Deputy Inspector-General" and "Additional Deputy Inspector-General" mean respectively a Deputy Inspector-General and an Additional Deputy Inspector-General of the Force appointed under section 5;

(h) "Director-General" and "Additional Director-General" mean respectively the Director-General and an Additional Director-General of the Force appointed under section 5;

(i) "enemy" includes all mutineers, armed rebels, armed rioters, pirates, terrorists and any person in arms against whom it is the duty of any person subject to this Act to take action;

(j) "enrolled person" means an under-officer or other person enrolled under this Act;

(k) "Force" means the Sashastra Seema Bal;

(l) "Force Court" means a Court referred to in section 76;

(m) "Force custody" means the arrest or confinement of a member of the Force under section 69;

(n) "Inspector-General" means the Inspector-General of the Force appointed under section 5;

(o) "Judge Attorney-General", "Additional Judge Attorney-General", "Deputy Judge Attorney-General" and "Judge Attorney" mean respectively the Judge Attorney-General, an Additional Judge Attorney-General, a Deputy Judge Attorney-General and a Judge Attorney of the Force appointed under sub-section (2) of section 95;

(p) "member of the Force" means an officer, a subordinate officer, an under-officer or other enrolled person;

(q) "notification" means a notification published in the Official Gazette;

(r) "offence" means any act or omission punishable under this Act and includes a civil offence;

(s) "officer" means a person appointed or in pay as an officer of the Force, but does not include a subordinate officer or an under-officer;

(t) "prescribed" means prescribed by rules made under this Act;

(u) "rule" means a rule made under this Act;



(v) "subordinate officer" means a person appointed or in pay as a Subedar Major or Inspector or Sub-Inspector and Assistant Sub-Inspector of the Force;

(w) "superior officer", when used in relation to a person subject to this Act, means—

(i) any member of the Force to whose command such person is for the time being subject in accordance with the rules;

(ii) any officer of a higher rank or class or of a higher grade in the same class, and includes, when such person is not an officer, a subordinate officer or an under-officer of higher rank, class or grade;

(x) "under-officer" means a Head Constable of the Force;

(y) "unit" includes—

(i) any body of officers and other members of the Force for which a separate authorised establishment exists;

(ii) any separate body of persons subject to this Act employed on any service and not attached to a unit as aforesaid;

(iii) any other separate body of persons composed wholly or partly of persons subject to this Act and specified as a unit by the Central Government.

45 of 1860.  
46 of 1950.  
47 of 1986.

(2) All words and expressions used and not defined in this Act but defined in the Indian Penal Code, the Army Act, 1950 or the National Security Guard Act, 1986, shall have the same meanings respectively assigned to them in that Code or those Acts.

(3) In this Act, references to any law not in force in the State of Jammu and Kashmir shall be construed as references to the corresponding law in force in that State.

3. (1) The following persons appointed (whether on deputation or in any other manner) in the Force shall be subject to this Act, wherever they may be, namely:—

Persons subject to this Act.

(a) officers and subordinate officers; and

(b) under-officers and other persons enrolled under this Act.

(2) Every person subject to this Act shall remain so subject until repatriated, retired, released, discharged, removed or dismissed from the Force in accordance with the provisions of this Act and the rules.

## CHAPTER II

### CONSTITUTION OF THE FORCE AND CONDITIONS OF SERVICE OF THE MEMBERS OF THE FORCE

4. (1) There shall be an armed force of the Union called the Sashastra Seema Bal for ensuring the security of the borders of India and performing such other duties as may be entrusted to it by the Central Government.

Constitution of the Force.

(2) Subject to the provisions of this Act, the Force shall be constituted in such manner as may be prescribed and the conditions of service of the members of the Force shall be such as may be prescribed.

5. (1) The general superintendence, direction and control of the Force shall vest in, and be exercised by, the Central Government and subject thereto and to the provisions of this Act and the rules made in this behalf, the command and supervision of the Force shall vest in an officer to be appointed by the Central Government as the Director-General of the Force.

Control, direction, etc.

(2) The Director-General shall, in the discharge of his duties under this Act, be assisted by such number of Additional Directors-General, Inspectors-General, Deputy Inspectors-General, Additional Deputy Inspectors-General, Commandants and other officers, as may be appointed by the Central Government.

Enrolment.

6. The persons to be enrolled to the Force, the mode of enrolment and the procedure for enrolment shall be such as may be prescribed.

Liability for service outside India.

7. Every member of the Force shall be liable to serve in any part of India as well as outside India.

Resignation and withdrawal from the post.

8. No member of the Force shall be at liberty,—

(a) to resign his appointment during the term of his engagement; or

(b) to withdraw himself from all or any of the duties of his appointment, except with the previous permission in writing of the prescribed authority.

Tenure of service under the Act.

9. Every person subject to this Act shall hold office during the pleasure of the President.

Termination of service by Central Government.

10. Subject to the provisions of this Act and the rules, the Central Government may dismiss or remove from the service any person subject to this Act.

Dismissal, removal or reduction in rank by the Director-General and by other officers.

11. (1) The Director-General, or any Additional Director-General or Inspector-General may dismiss or remove from the service or reduce to a lower grade or rank any person subject to this Act other than an officer.

(2) An officer not below the rank of Deputy Inspector-General or any prescribed officer may dismiss or remove from the service any person under his command other than an officer or a subordinate officer of such rank as may be prescribed.

(3) Any such officer as is mentioned in sub-section (2) may reduce to a lower grade or rank any person under his command except an officer or a subordinate officer.

(4) The exercise of any power under this section shall be subject to the provisions of this Act and the rules.

Certificate of termination of service.

12. A subordinate officer, or an under-officer or other enrolled person who is retired, discharged, released, removed or dismissed from the service shall be furnished by the officer, to whose command he is subject, with a certificate in Hindi or English language setting forth —

(a) the authority terminating his service;

(b) the cause for such termination; and

(c) the full period of his service in the Force.

Restrictions respecting right to form association, freedom of speech, etc.

13. (1) No person subject to this Act shall, without the previous sanction in writing of the Central Government or of the prescribed authority,—

(a) be a member of, or be associated in any way with, any trade union, labour union, political association, or with any class of trade unions, labour unions or political associations; or

(b) be a member of, or be associated in any way with, any society, institution, association or organisation which is not recognised as part of the Force or is not of a purely social, recreational or religious nature; or

(c) communicate with the press or publish or cause to be published any book, letter or other document except where such communication or publication is in the *bona fide* discharge of his duties or is of a purely literary, artistic or scientific character or is of a prescribed nature.

*Explanation.*—If any question arises as to whether any society, institution, association or organisation is of a purely social, recreational or religious nature under clause (b) of this sub-section, the decision of the Central Government thereon shall be final.

(2) No person subject to this Act shall participate in, or address, any meeting or take part in any demonstration organised by any body of persons for any political purposes or for such other purposes as may be prescribed.

14. (1) Any person subject to this Act other than an officer who deems himself wronged by any superior or other officer may complain to the officer under whose command he is serving.

Redressal of grievances of persons other than officers.

(2) When the officer complained against is the officer to whom any complaint should, under sub-section (1), be preferred, the aggrieved person may complain to such officer's next superior officer.

(3) Every officer receiving any such complaint shall make as complete an investigation into it as may be possible for giving full redress to the complainant, or when necessary, refer the complaint to a superior authority.

(4) The Director-General may revise any decision made under any of the foregoing sub-sections, but, subject thereto, such decision shall be final.

15. Any officer who deems himself wronged by his commanding officer or any other superior officer and who, on due application made to his commanding officer or such other superior officer, does not receive the redress to which he considers himself entitled, may complain to the Director-General or the Central Government through proper channel.

Redressal of grievances of officers.

### CHAPTER III

#### OFFENCES.

16. Any person subject to this Act who commits any of the following offences, namely:—

Offences in relation to enemy and punishable with death.

(a) shamefully abandons or delivers up any post, place or guard, committed to his charge or which it is his duty to defend; or

(b) intentionally uses any means to compel or induce any person subject to this Act or to any other law relating to military, naval, air force or any other armed force of the Union to abstain from acting against the enemy or to discourage such person from acting against the enemy; or

(c) in the presence of the enemy, shamefully casts away his arms, ammunition, tools or equipment or misbehaves in such manner as to show cowardice; or

(d) treacherously holds correspondence with, or communicates intelligence to, the enemy, terrorist or any person in arms against the Union; or

(e) directly or indirectly assists the enemy or terrorist with money, arms, ammunition, stores or supplies or in any other manner whatsoever; or

(f) in time of active operation against the enemy or terrorist, intentionally occasions a false alarm in action, camp, quarters, or spreads or causes to be spread reports calculated to create alarm or despondency; or

(g) in time of action leaves his commanding officer or other superior officer or his post, guard, picket, patrol or party without being regularly relieved or without leave; or

(h) having been captured by the enemy or made a prisoner of war, voluntarily serves with or aids the enemy; or

(i) knowingly harbours or protects an enemy, not being a prisoner; or

(j) being a sentry in time of active operation against the enemy or alarm, sleeps upon his post or is intoxicated; or

(k) knowingly does any act calculated to imperil the success of the Force or the military, naval or air force of India or any forces co-operating therewith or any part of such forces,

shall, on conviction by a Force Court, be liable to suffer death or such less punishment as is in this Act mentioned.

Offences in relation to the enemy and not punishable with death.

17. Any person subject to this Act who commits any of the following offences, namely:—

(a) is taken prisoner or captured by the enemy, by want of due precaution or through disobedience of order, or wilful neglect of duty, or having been taken prisoner or so captured fails to rejoin his service when able to do so; or

(b) without due authority holds correspondence with, or communicates intelligence to, the enemy or any person in league with the enemy or having come by the knowledge of any such correspondence or communication, wilfully omits to disclose it immediately to his commandant or other superior officer,

shall, on conviction by a Force Court, be liable to suffer imprisonment for a term which may extend to fourteen years or such less punishment as is in this Act mentioned.

Offences punishable more severely on active duty than at other times.

18. Any person subject to this Act who commits any of the following offences, namely:—

(a) forces a safeguard, or forces or uses criminal force to a sentry; or

(b) breaks into any house or other place in search of plunder; or

(c) being a sentry, sleeps upon his post or is intoxicated; or

(d) without orders from his superior officer leaves his guard, picket, patrol or post; or

(e) intentionally or through neglect occasions a false alarm in camp or quarters, or spreads or causes to be spread reports calculated to create unnecessary alarm or despondency; or

(f) makes known the parole, watchword or countersign to any person not entitled to receive it; or knowingly gives a parole, watchword or a countersign different from what he received,

shall, on conviction by a Force Court,—

(i) if he commits any such offence when on active duty, be liable to suffer imprisonment for a term which may extend to fourteen years or such less punishment as is in this Act mentioned; and

(ii) if he commits any such offence when not on active duty, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

Mutiny.

19. Any person subject to this Act who commits any of the following offences, namely:—

(a) begins, incites, causes or conspires with any other person to cause any mutiny in the Force or in the military, naval or air force of India or any forces co-operating therewith; or



(b) joins in any such mutiny; or

(c) being present at any such mutiny, does not use his utmost endeavours to suppress the same; or

(d) knowing or having reason to believe in the existence of any such mutiny, or of any intention to mutiny or of any such conspiracy, does not, without delay, give information thereof to his commanding officer or other superior officer; or

(e) endeavours to seduce any person in the Force or in the military, naval or air force of India or any forces co-operating therewith from his duty or allegiance to the Union, shall, on conviction by a Force Court, be liable to suffer death or such less punishment as is in this Act mentioned.

20. (1) Any person subject to this Act who deserts or attempts to desert the service shall, on conviction by a Force Court,—

Desertion and  
aiding  
desertion.

(a) if he commits the offence when on active duty or when under orders for active duty, be liable to suffer death or such less punishment as is in this Act mentioned; and

(b) if he commits the offence under any other circumstances, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

(2) Any person subject to this Act who knowingly harbours any such deserter shall, on conviction by a Force Court, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

(3) Any person subject to this Act who, being cognizant of any desertion or attempt at desertion of a person subject to this Act, does not forthwith give notice to his own or some other superior officer, or take any steps in his power to cause such person to be apprehended, shall, on conviction by a Force Court, be liable to suffer imprisonment for a term which may extend to two years or such less punishment as is in this Act mentioned.

(4) For the purposes of this Act, a person deserts,—

(a) if he absents from his unit or the place of duty at any time with the intention of not reporting back to such unit or place, or who, at any time and under any circumstances when absent from his unit or place of duty, does any act which shows that he has an intention of not reporting to such unit or place of duty;

(b) if he absents himself without leave with intent to avoid any active duty.

21. Any person subject to this Act who commits any of the following offences, namely:—

Absence with-  
out leave.

(a) absents himself without leave; or

(b) without sufficient cause overstays leave granted to him; or

(c) being on leave of absence and having received information from the appropriate authority that any battalion or part thereof or any other unit of the Force, to which he belongs, has been ordered on active duty, fails, without sufficient cause, to rejoin without delay; or

(d) without sufficient cause fails to appear at the time fixed at the parade or place appointed for exercise or duty; or

(e) when on parade, or on the line of march, without sufficient cause or without leave from his superior officer, quits the parade or line of march; or

(f) when in camp or elsewhere, is found beyond any limits fixed or in any place prohibited, by any general, local or other order, without a pass or written leave from his superior officer; or

(g) without leave from his superior officer or without due cause, absents himself from any school or training institution when duly ordered to attend there, shall, on conviction by a Force Court, be liable to suffer imprisonment for a term which may extend to three years or such less punishment as is in this Act mentioned.

Striking or threatening superior officer.

22. Any person subject to this Act who commits any of the following offences, namely:—

- (a) uses criminal force to or assaults his superior officer; or
- (b) uses threatening language to such officer; or
- (c) uses insubordinate language to such officer,

shall, on conviction by a Force Court,—

(i) if such officer is at the time in the execution of his office or, if the offence is committed on active duty, be liable to suffer imprisonment for a term which may extend to fourteen years or such less punishment as is in this Act mentioned; and

(ii) in other cases, be liable to suffer imprisonment for a term which may extend to ten years or such less punishment as is in this Act mentioned:

Provided that in the case of an offence specified in clause (c), the imprisonment shall not exceed five years.

Disobedience to superior officer.

23. (1) Any person subject to this Act who disobeys in such manner as to show a wilful defiance of authority any lawful command given personally by his superior officer in the execution of his office whether the same is given orally, or in writing or by signal or otherwise, shall, on conviction by a Force Court, be liable to suffer imprisonment for a term which may extend to fourteen years or such less punishment as is in this Act mentioned.

(2) Any person subject to this Act who disobeys any lawful command given by his superior officer shall, on conviction by a Force Court,—

(a) if he commits such offence when on active duty, be liable to suffer imprisonment for a term which may extend to fourteen years or such less punishment as is in this Act mentioned; and

(b) if he commits such offence when not on active duty, be liable to suffer imprisonment for a term which may extend to five years or such less punishment as is in this Act mentioned.

Insubordination and obstruction.

24. Any person subject to this Act who commits any of the following offences, namely:—

(a) being concerned in any quarrel, affray or disorder, refuses to obey any officer, though of inferior rank, who orders him into arrest, or uses criminal force to, or assaults, any such officer; or

(b) uses criminal force to, or assaults any person, whether subject to this Act or not, in whose custody he is lawfully placed, and whether he is or is not his superior officer; or

(c) resists an escort whose duty it is to apprehend him or to have him in charge; or

(d) breaks out of barracks, camp or quarters; or

(e) neglects to obey any general, local or other order; or

(f) impedes the Force Police referred to in section 75 or any person lawfully acting on his behalf, or when called upon, refuses to assist in the execution of his duty a Force Police or any person lawfully acting on his behalf,

shall, on conviction by a Force Court, be liable to suffer imprisonment for a term which may extend, in the case of the offences specified in clauses (d) or (e), to two years, and in the case of the offences specified in the other clauses, to ten years, or in either case such less punishment as is in this Act mentioned.

False information on enrolment.

25. Any person having become subject to this Act who is discovered to have knowingly given at the time of enrolment false information to any question set forth in the prescribed form of enrolment which has been put to him by the enrolling officer before whom he appears for the purpose of being enrolled, shall, on conviction by a Force Court, be liable to suffer imprisonment for a term which may extend to five years or such less punishment as is in this Act mentioned.

26. Any officer or subordinate officer who behaves in a manner unbecoming of his position and the character expected of him shall, on conviction by a Force Court, be liable to be dismissed or to suffer such less punishment as is in this Act mentioned.

Unbecoming conduct.

27. Any person subject to this Act who commits any of the following offences, namely:—

Certain forms of disgraceful conduct.

(a) is guilty of any disgraceful conduct of a cruel, indecent or unnatural kind; or

(b) maligns, or feigns, or produces disease or infirmity in himself or intentionally delays his cure or aggravates his disease or infirmity; or

(c) with intent to render himself or any other person unfit for service, voluntarily causes hurt to himself or that person,

shall, on conviction by a Force Court, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

28. Any officer, subordinate officer or under-officer, who uses criminal force to or otherwise ill-treats any person subject to this Act, being his subordinate in rank or position, shall, on conviction by a Force Court, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

Ill-treating a subordinate.

29. (1) Any person subject to this Act who is found in a state of intoxication, whether on duty or not, shall, on conviction by a Force Court, be liable to suffer imprisonment for a term which may extend to six months or such less punishment as is in this Act mentioned.

Intoxication.

(2) For the purposes of sub-section (1), a person shall be deemed to be in a state of intoxication if, owing to the influence of alcohol or any drug whether alone, or any combination with any other substance, he is unfit to be entrusted with his duty or with any duty which he may be called upon to perform or, behaves in a disorderly manner or in a manner likely to bring discredit to the Force.

30. Any person subject to this Act who commits any of the following offences, namely:—

Permitting escape of person in custody.

(a) when in command of a guard, picket, patrol, detachment or post, releases without proper authority, whether wilfully or without reasonable excuse, any person committed to his charge, or refuse to receive any prisoner or person so committed; or

(b) wilfully or without reasonable excuse allow to escape any person who is committed to his charge, or whom it is his duty to keep or guard,

shall, on conviction by a Force Court, be liable, if he has acted wilfully, to suffer imprisonment for a term which may extend to ten years or such less punishment as is in this Act mentioned, and if he has not acted wilfully, to suffer imprisonment for a term which may extend to two years or such less punishment as is in this Act mentioned.

31. Any person subject to this Act who commits any of the following offences, namely:—

Irregularity in connection with arrest or confinement.

(a) unnecessarily detains a person in arrest or confinement without bringing him to trial, or fails to bring his case before the proper authority for investigation; or

(b) having committed a person to Force custody fails without reasonable cause to deliver at the time of such committal, or as soon as practicable, and in any case within forty-eight hours thereafter, to the officer or other person into whose custody the person arrested is committed, an account in writing signed by himself of the offence with which the person so committed is charged,

shall, on conviction by a Force Court, be liable to suffer imprisonment for a term which may extend to one year or such less punishment as is in this Act mentioned.

Escape from  
custody.

32. Any person subject to this Act, who, being in lawful custody, escapes or attempts to escape, shall, on conviction by a Force Court, be liable to suffer imprisonment for a term which may extend to three years or such less punishment as is in this Act mentioned.

Offences in  
respect of  
property.

33. Any person subject to this Act who commits any of the following offences, namely:—

(a) commits theft of any property belonging to the Government, or to any Force mess, band or institution, or to any person subject to this Act; or

(b) dishonestly misappropriates or converts to his own use any such property;  
or

(c) commits criminal breach of trust in respect of any such property; or

(d) dishonestly receives or retains any such property in respect of which any of the offences under clauses (a), (b) and (c) has been committed, knowing or having reasons to believe the commission of such offences; or

(e) wilfully destroys or injures any property of the Government entrusted to him;  
or

(f) does any other thing with intent to defraud, or to cause wrongful gain to one person or wrongful loss to another person,

shall, on conviction by a Force Court, be liable to suffer imprisonment for a term which may extend to ten years or such less punishment as is in this Act mentioned.

Extortion and  
exaction.

34. Any person subject to this Act who commits any of the following offences, namely:—

(a) commits extortion; or

(b) without proper authority exacts from any person money, provisions or service,

shall, on conviction by a Force Court, be liable to suffer imprisonment for a term which may extend to ten years or such less punishment as is in this Act mentioned.

Making  
away with  
equipment.

35. Any person subject to this Act who commits any of the following offences, namely:—

(a) makes away with, or is concerned in making away with, any arms, ammunition, equipment, instruments, tools, clothing or any other thing being the property of the Government issued to him for his use or entrusted to him; or

(b) loses by neglect anything mentioned in clause (a); or

(c) sells, pawns, destroys or defaces any medal or decoration granted to him,

shall, on conviction, by a Force Court, be liable to suffer imprisonment for a term which may extend, in the case of the offences specified in clause (a), to ten years, and in the case of the offences, specified in the other clauses, to five years, or in either case such less punishment as is in this Act mentioned.

Injury to  
property, etc.

36. Any person subject to this Act who commits any of the following offences, namely:—

(a) destroys or injures any property mentioned in clause (a) of section 35, or any property belonging to any Force mess, band or institution, or to any person subject to this Act; or

(b) commits any act which causes damage to, or destruction of, any property of the Government by fire; or

(c) kills, injures, makes away with, ill-treats or loses, any animal entrusted to him,



shall, on conviction by a Force Court, be liable, if he has acted wilfully, to suffer imprisonment for a term which may extend to ten years or such less punishment as is in this Act mentioned; and if he has acted without reasonable excuse, to suffer imprisonment for a term which may extend to five years or such less punishment as is in this Act mentioned.

37. Any person subject to this Act who commits any of the following offences, namely:—

False accusations.

(a) makes a false accusation against any person subject to this Act, knowing or having reason to believe such accusation to be false; or

(b) in making a complaint against any person subject to this Act makes any statement affecting the character of such person, knowing or having reason to believe such statement to be false, or knowingly and wilfully suppresses any material facts,

shall, on conviction by a Force Court, be liable to suffer imprisonment for a term which may extend to three years or such less punishment as is in this Act mentioned.

38. Any person subject to this Act who commits any of the following offences, namely:—

Falsifying official documents and false declarations.

(a) in any report, return, list, certificate, book or other document made or signed by him, or of the contents of which it is his duty to ascertain the accuracy, knowingly makes, or is privy to the making of, any false or fraudulent statement; or

(b) in any document of the description mentioned in clause (a) knowingly makes, or is privy to the making of, any omission, with intent to defraud; or

(c) knowingly and with intent to injure any person, or knowingly and with intent to defraud, suppresses, defaces, alters or makes away with any document which it is his duty to preserve or produce; or

(d) where it is his official duty to make a declaration respecting any matter knowingly makes a false declaration; or

(e) obtains for himself, or for any other person, any pension, allowance or other advantage or privilege by a statement which is false, and which he either knows or believes to be false or does not believe to be true; or by making or using a false entry in any book or record, or by making any document containing a false statement, or by omitting to make a true entry or document containing a true statement,

shall, on conviction by a Force Court, be liable to suffer imprisonment for a term which may extend to ten years or such less punishment as is in this Act mentioned.

39. Any person subject to this Act who commits any of the following offences, namely:—

Signing in blank and failure to report.

(a) when signing any document relating to pay, arms, ammunitions, equipment, clothing, supplies or stores, or any property of the Government fraudulently leaves in blank any material part for which his signature is a voucher; or

(b) refuses or by culpable neglect omits to make or send a report or return which it is his duty to make or send,

shall, on conviction by a Force Court, be liable to suffer imprisonment for a term which may extend to three years or such less punishment as is in this Act mentioned.

40. Any person subject to this Act who commits any of the following offences, namely:—

Offences relating to Force Court.

(a) being duly summoned or ordered to attend as a witness before a Force Court, wilfully or without reasonable excuse, makes default in attending; or

(b) refuses to take an oath or make an affirmation legally required by a Force Court to be taken or made; or

(c) refuses to produce or deliver any document in his power or control legally required by a Force Court to be produced or delivered by him; or

(d) refuses, when a witness, to answer any question which he is by law bound to answer; and

(e) is guilty of contempt of the Force Court by using insulting or threatening language, or by causing any interruption or disturbance in the proceedings of such court,

shall, on conviction by a Force Court, be liable to suffer imprisonment for a term which may extend to three years or such less punishment as is in this Act mentioned.

False evidence.

41. Any person subject to this Act who, having been duly sworn or affirmed before any Force Court or other court competent under this Act to administer an oath or affirmation, makes any statement which is false, and which he either knows or believes to be false or does not believe to be true, shall, on conviction by a Force Court, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

Unlawful detention of pay.

42. Any officer, subordinate officer or an under-officer who, having received the pay of a person subject to this Act unlawfully detains or refuses to pay the same when due, shall, on conviction by a Force Court, be liable to suffer imprisonment for a term which may extend to five years or such less punishment as is in this Act mentioned.

Violation of good order and discipline.

43. Any person subject to this Act who is guilty of any act or omission which, though not specified in this Act, is prejudicial to good order and discipline of the Force shall, on conviction by a Force Court, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

Miscellaneous offences.

44. Any person subject to this Act who commits any of the following offences, namely:—

(a) being in command at any post or on the march, and receiving a complaint that any one under his command has beaten or otherwise maltreated or oppressed any person, or has disturbed any fair or market, or committed any riot or trespass, fails to have due reparation made to the injured person or to report the case to the proper authority; or

(b) by defiling any place of worship, or otherwise, intentionally insults the religion, or wounds the religious feelings of, any person; or

(c) attempts to commit suicide, and in such attempt does any act towards the commission of such offence; or

(d) being below the rank of subordinate officer, when off duty, appears without proper authority, in or about camp, or in or about, or when going to, or returning from, any town or bazaar, carrying a rifle, sword or other offensive weapon; or

(e) directly or indirectly accepts or obtains, or agrees to accept, or attempts to obtain, for himself or for any other person, any gratification as a motive or reward for procuring the enrolment of any person, or leave of absence, promotion or any other advantage or indulgence for any person in the service; or

(f) commits any offence against the property or person of any inhabitant of, or resident in, the country in which he is serving,

shall, on conviction by a Force Court, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

Attempt.

45. Any person subject to this Act who attempts to commit any of the offences specified in sections 16 to 44 (both inclusive) and in such attempt does any act towards the

commission of the offence shall, on conviction by a Force Court, where no express provision is made by this Act for the punishment of such attempt, be liable,—

(a) if the offence attempted to be committed is punishable with death, to suffer imprisonment for a term which may extend to fourteen years or such less punishment as is in this Act mentioned; and

(b) if the offence attempted to be committed is punishable with imprisonment, to suffer imprisonment for a term which may extend to one-half of the longest term provided for that offence or such less punishment as is in this Act mentioned.

46. Any person subject to this Act who abets the commission of any of the offences specified in sections 16 to 44 (both inclusive) shall, on conviction by a Force Court, if the Act abetted is committed in consequence of the abetment and no express provision is made by this Act for the punishment of such abetment, be liable to suffer the punishment provided for that offence or such less punishment as is in this Act mentioned.

Abetment of offences that have been committed.

47. Any person subject to this Act who abets the commission of any of the offences punishable with death, under sections 16, 19 and sub-section (1) of section 20 shall, on conviction by a Force Court, if that offence be not committed in consequence of the abetment, and no express provision is made by this Act for the punishment of such abetment, be liable to suffer imprisonment for a term which may extend to fourteen years or such less punishment as is in this Act mentioned.

Abetment of offences punishable with death and not committed.

48. Any person subject to this Act who abets the commission of any of the offences specified in sections 16 to 44 (both inclusive) and punishable with imprisonment shall, on conviction by a Force Court, if that offence be not committed in consequence of the abetment, and no express provision is made by this Act for the punishment of such abetment, be liable to suffer imprisonment for a term which may extend to one-half of the longest term provided for that offence or such less punishment as is in this Act mentioned.

Abetment of offences punishable with imprisonment and not committed.

49. Subject to the provisions of section 50, any person subject to this Act who at any place in, or beyond, India commits any civil offence shall be deemed to be guilty of an offence against this Act and, if charged therewith under this section shall be liable to be tried by a Force Court and, on conviction, be punishable as follows, namely:—

Civil offences.

(a) if the offence is one which would be punishable under any law in force in India with death, he shall be liable to suffer any punishment, assigned for the offence, by the aforesaid law and such less punishment as is in this Act mentioned; and

(b) in any other case, he shall be liable to suffer any punishment, assigned for the offence by the law in force in India, or imprisonment for a term which may extend to seven years, or such less punishment as is in this Act mentioned.

50. A person subject to this Act who commits an offence of murder or culpable homicide not amounting to murder against, or of rape in relation to, a person not subject to this Act shall not be deemed to be guilty of an offence under this Act and shall not be tried by a Force Court, unless he commits any of the said offences—

Civil offences not triable by a Force Court.

(a) while on active duty; or

(b) at any place outside India; or

(c) at any place specified by the Central Government by notification, in this behalf.



## CHAPTER IV

## PUNISHMENTS

Punishment  
by Force  
Courts.

51. (1) Punishments may be inflicted in respect of offences committed by persons subject to this Act and convicted by Force Courts according to the scale following, namely:—

- (a) death;
- (b) imprisonment which may be for the term of life or any other lesser term but excluding imprisonment for a term not exceeding three months in Force custody;
- (c) dismissal or removal from the service;
- (d) compulsory retirement from the service;
- (e) imprisonment for a term not exceeding three months in Force custody;
- (f) reduction to the ranks or to a lower rank or grade or a place in the list of their rank in the case of an under-officer;
- (g) reduction to next lower rank in case of an officer or subordinate officer:

Provided that no officer shall be reduced to a rank lower than the one to which he was initially appointed;

(h) forfeiture of seniority of rank and forfeiture of all or any part of the service for the purpose of promotion;

(i) forfeiture of service for the purpose of increased pay or pension;

(j) fine, in respect of civil offences;

(k) severe reprimand or reprimand except in the case of persons below the rank of an under-officer;

(l) forfeiture of pay and allowances for a period not exceeding three months for an offence committed on active duty;

(m) forfeiture in the case of person sentenced to dismissal from the service of all arrears of pay and allowances and other public money due to him at the time of such dismissal;

(n) stoppage of pay and allowances until any proved loss or damage occasioned by the offence for which he is convicted is made good.

(2) Each of the punishments specified in sub-section (1) shall be deemed to be inferior in degree to every punishment preceding it in the above scale.

Alternative  
punishments  
by Force  
Courts.

52. Subject to the provisions of this Act, a Force Court may, on convicting a person subject to this Act of any of the offences specified in sections 16 to 48 (both inclusive) award either the particular punishment with which the offence is stated in the said sections to be punishable or, in lieu thereof, any one of the punishments lower in the scale set out in section 51 regard being had to the nature and degree of the offence.

Combination  
of punish-  
ments.

53. A Force Court may award in addition to, or without, any other punishment, the punishment specified in clause (c) of sub-section (1) of section 51 or any one or more of the punishments specified in clauses (f) to (n) of that sub-section.

Retention in  
the Force  
of a person  
convicted on  
active duty.

54. When on active duty an enrolled person has been sentenced by a Force Court to imprisonment whether combined with dismissal or not, the prescribed officer may direct that such person may be retained to serve in the ranks, and such service shall be reckoned as part of his term of imprisonment.



55. Punishments may also be inflicted in respect of offences committed by persons subject to this Act without the intervention of a Force Court in the manner stated in sections 56, 58 and 59.

Punishments  
otherwise than  
by Force Courts.

56. (1) Subject to the provisions of section 57, a commanding officer of and above the rank of Commandant may, in the prescribed manner, proceed against a person subject to this Act, other than an officer or a subordinate officer, who is charged with an offence under this Act and award such person, to the extent prescribed, one or more of the following punishments, namely:—

Minor  
punishments.

(a) imprisonment in Force custody up to twenty-eight days;

(b) detention up to twenty-eight days;

(c) confinement to the lines up to twenty-eight days;

(d) extra guards or duties;

(e) deprivation of any special position or special emoluments or any acting rank;

(f) severe reprimand or reprimand;

(g) fine up to fourteen days' pay in any one month;

(h) deductions from his pay and allowances of any sum required to make good any loss or damage occasioned by the offence for which he is punished.

(2) If any unit, training centre or other establishment of the Force is being temporarily commanded by an officer of the rank of Second-in-Command or Deputy Commandant, such officer shall have full powers of a commanding officer specified in sub-section (1).

(3) Subject to the provisions of section 57, a Deputy Commandant or an Assistant Commandant, commanding a company or a detachment or an outpost, shall have the power to proceed against a person subject to this Act, other than an officer or a subordinate officer, who is charged with an offence under this Act and award such person to the extent prescribed, one or more of the punishments specified in clauses (a) to (d) and (h) of sub-section (1) provided that the maximum limit of punishment awarded under each of the clauses (a), (b) and (c) shall not exceed fourteen days.

(4) A subordinate officer not below the rank of Sub-Inspector who is commanding a detachment or an outpost shall have the powers to proceed against a person subject to this Act, other than a subordinate officer or an under-officer, who is charged with an offence under this Act and award such person to the extent prescribed, one or more of the punishments specified under clauses (c) and (d) of sub-section (1) provided that the maximum limit of punishment awarded under clause (c) shall not exceed fourteen days.

57. (1) In the case of an award of two or more of the punishments specified in clauses (a), (b), (c) and (d) of sub-section (1) of section 56, the punishments specified in clause (c) or clause (d) shall take effect only at the end of the punishment specified in clause (a) or clause (b).

Limit of  
punishments  
under section  
56.

(2) When two or more of the punishments specified in clauses (a), (b) and (c) of sub-section (1) of section 56 are awarded to a person conjointly, or when already undergoing one or more of the said punishments, the whole extent of the punishments shall not exceed in the aggregate forty-two days.

(3) The punishments specified in clauses (a), (b) and (c) of sub-section (1) of section 56 shall not be awarded to any person who is of the rank of an under-officer or was, at the time of committing the offence for which he is punished, of such rank.

(4) The punishment specified in clause (f) of sub-section (1) of section 56 shall not be awarded to any person below the rank of an under-officer.

Punishment  
of persons  
of or below  
the rank of  
Commandant  
by Inspector-  
General and  
others.

58. (1) An officer not below the rank of Inspector-General may, in the prescribed manner, proceed against an officer of or below the rank of Commandant who is charged with an offence under this Act and award one or more of the following punishments, namely:—

(a) forfeiture of seniority; or in the case of any of them whose promotion depends upon length of service, forfeiture of service for the purpose of promotion for a period not exceeding one year, but subject to the right of the accused previous to the award to elect to be tried by a Force Court;

(b) severe reprimand or reprimand;

(c) deduction from pay and allowances of any sum required to make good any proved loss or damage occasioned by the offence of which he is convicted.

(2) An officer not below the rank of Additional Deputy Inspector-General may, in the prescribed manner, proceed against a person of or below the rank of Subedar-Major or Inspector who is charged with an offence under this Act and award one or more of the following punishments, namely:—

(a) forfeiture of seniority, or in the case of any of them whose promotion depends upon the length of service, forfeiture of service for the purpose of promotion for a period not exceeding one year, but subject to the right of the accused previous to the award to elect to be tried by a Force Court;

(b) severe reprimand or reprimand;

(c) deduction from pay and allowances of any sum required to make good any proved loss or damage occasioned by the offence of which he is convicted.

(3) An officer not below the rank of Commandant may, in the prescribed manner, proceed against a person of or below the rank of Subedar-Major or Inspector who is charged with an offence under this Act and award any one or both of the following punishments, namely:—

(a) severe reprimand or reprimand;

(b) deduction from pay and allowances of any sum required to make good any proved loss or damage occasioned by the offence of which he is convicted.

Cancellation,  
variation or  
remittance of  
sentence.

59. (1) In every case in which punishment has been awarded under section 58, certified true copies of the proceedings shall be forwarded, in the prescribed manner, by the officer awarding the punishment to the prescribed superior authority who may, if the punishment awarded appears to him to be illegal, unjust or excessive, cancel, vary or remit the punishment and make such other direction as may be appropriate in the circumstances of the case.

(2) For the purpose of sub-section (1), a "superior authority" means,—

(a) any officer superior in command to such officer who has awarded the punishment;

(b) in the case of punishment awarded by Director-General, the Central Government.

Collective  
fines.

60. (1) Whenever any weapon or part of weapon or ammunition, forming part of the equipment of a unit, is lost or stolen, a commanding officer not below the rank of the Commandant of that unit may, after making such enquiry as he thinks fit, impose such collective fine as may be prescribed, upon the subordinate officers, under-officers and men of such unit, or upon so many of them as, in his judgment, should be held responsible for such loss or theft.

(2) Such fine shall be assessed as a percentage of the pay of the individuals on whom it falls.

## CHAPTER V

## DEDUCTIONS FROM PAY AND ALLOWANCES

61. (1) The following deductions may be made from the pay and allowances of an officer, namely:—

Deductions  
from pay and  
allowances of  
persons subject  
to this Act.

(a) all pay and allowances due to an officer for every day he absents himself without leave, unless a satisfactory explanation has been given to, and accepted by, the Inspector-General under whom he is for the time being serving;

(b) all pay and allowances for every day while he is in custody on a charge for an offence for which he is afterwards convicted by a criminal court or Force Court or by an officer exercising authority under section 58;

(c) any sum required to make good the pay of any person subject to this Act which he has unlawfully retained or unlawfully refused to pay;

(d) any sum required to make good such compensation for any expenses, loss, damage or destruction occasioned by the commission of an offence as may be determined by the Force Court by whom he is convicted of such offence or by an officer exercising authority under section 58;

(e) all pay and allowances ordered by Force Court;

(f) any sum required to be paid as fine awarded by a criminal court or a Force Court;

(g) any sum required to make good any loss, damage or destruction of public or Force property which, after due investigation, appears to the Inspector-General under whom the officer is for the time being serving, to have been occasioned by the wrongful act or negligence on the part of the officer;

(h) all pay and allowances forfeited by order of the Central Government if the officer is found by a court of inquiry constituted by the Director-General in this behalf, to have deserted to the enemy, or while in enemy hands, to have served with, or under the orders of, the enemy, or in any manner to have aided the enemy; or to have allowed himself to be taken prisoner by the enemy through want of due precaution or through disobedience of orders or wilful neglect of duty, or having been taken prisoner by the enemy, to have failed to rejoin his service when it was possible to do so;

(i) any sum required by order of the Central Government to be paid for the maintenance of his wife or his legitimate or illegitimate child or step child or towards the cost of any relief given by the said Government to the said wife or child.

(2) Subject to the provisions of section 63, the following deductions may be made from the pay and allowances of a person subject to this Act, other than an officer, namely:—

(a) all pay and allowances for every day of absence either on desertion or without leave or as a prisoner of war unless a satisfactory explanation has been given and accepted by his commanding officer and for every day of imprisonment awarded by a criminal court, Force Court or an officer exercising authority under section 56;

(b) all pay and allowances for every day while he is in custody on a charge for an offence of which he is afterwards convicted by a criminal court or Force Court or on a charge of absence without leave for which he is afterwards awarded imprisonment by an officer exercising authority under section 56;

(c) all pay and allowances for every day on which he is in hospital on account of sickness certified by the medical officer attending on him to have been caused by an offence under this Act committed by him;

(d) all pay and allowances for every day on which he is in hospital on account of sickness certified by the medical officer attending on him to have been caused by his own misconduct or imprudence, such sum as may be specified by the order of the Director-General;

(e) all pay and allowances ordered by Force Court or by an officer exercising authority under any of the sections 56 and 58 to be forfeited or stopped;

(f) all pay and allowances for every day between his being recovered from the enemy and his dismissal from the service in consequence of his conduct when being taken prisoner by, or while in the hands of the enemy;

(g) any sum required to make good such compensation for any expenses, loss, damage or destruction caused by him to the Central Government or to any building or property or any private fund of the Force as may be awarded by his commanding officer;

(h) any sum required to pay a fine awarded by a criminal court, Force Court exercising jurisdiction under section 49 or an officer exercising authority under any of the sections 56 and 60;

(i) any sum required by order of the Central Government or any prescribed officer to be paid for the maintenance of his wife, or his legitimate or illegitimate child or step child or towards the cost of any relief given by the said Government to the said wife or child.

(3) For computation of time of absence or custody under this section,—

(a) no person shall be treated as absent or in custody for a day unless the absence or custody has lasted, whether wholly in one day, or partly in one day and partly in another for six consecutive hours or upwards;

(b) any absence or custody for less than a day may be reckoned as absence or custody for a day, if such absence or custody prevented the absentee from fulfilling any duty as member of the Force which was thereby thrown upon some other person;

(c) absence or custody for twelve consecutive hours or upwards may be reckoned as absence or custody for the whole of each day during any portion of which the person was absent or in custody;

(d) a period of absence, or imprisonment, which commences before, and ends after, midnight may be reckoned as a day.

Pay and allowances during trial.

62. In the case of any person subject to this Act who is in custody or under suspension from duty on a charge for an offence, the prescribed officer may direct that the whole or any part of the pay and allowances of such person shall be withheld, pending the result of his trial on the charge against him, in order to give effect to the provisions of clause (b) of sub-sections (1) and (2) of section 61.

Limit of certain deductions.

63. The total deductions from the pay and allowances of a person made under clauses (e) and (g) to (i) of sub-section (2) of section 61 shall not, except where he is sentenced to dismissal or removal, exceed in any one month one-half of his pay and allowances for that month.

Deduction from public money due to a person.

64. Any sum authorised by this Act to be deducted from the pay and allowances of any person may, without prejudice to any other mode of recovering the same, be deducted from any public money due to him other than a pension.

Pay and allowances of prisoner of war during inquiry into his conduct.

65. Where the conduct of any person subject to this Act when being taken prisoner by, or while in the hands of, the enemy, is to be inquired into under this Act or any other law, the Director-General or any officer authorised by him may order that the whole or any part of the pay and allowances of such person shall be withheld pending the result of such inquiry.



66. Any deduction from pay and allowances authorised by this Act may be remitted in such manner and to such extent, and by such authority, as may from time to time be prescribed.

Remission of deductions.

67. (1) In the case of all persons subject to this Act, being prisoners of war, whose pay and allowances have been forfeited under clause (h) of sub-section (1) or clause (a) of sub-section (2) of section 61 but in respect of whom a remission has been made under section 66, it shall be lawful for the Central Government or the Director-General, when so authorised by the Central Government, to make provisions in respect of pay and allowances for any dependants of such persons and any such remission shall in that case be deemed to apply only to the balance thereafter remaining of such pay and allowances.

Provision for dependants of prisoner of war from his remitted deductions and pay and allowances.

(2) It shall be lawful for the Central Government or the Director-General, when so authorised by the Central Government, to make provisions for any dependants of any person subject to this Act who is a prisoner of war, or is missing, in respect of his pay and allowances.

68. For the purposes of section 67, a person shall be deemed to continue to be a prisoner of war until the conclusion of any inquiry into his conduct such as is referred to in section 65 and if he is dismissed from the service in consequence of such conduct, until the date of such dismissal.

Period during which a person is deemed to be a prisoner of war.

## CHAPTER VI

### ARREST AND PROCEEDINGS BEFORE TRIAL

69. (1) Any person subject to this Act who is charged with any offence may be taken into Force custody under the order of any superior officer.

Custody of offenders.

(2) Notwithstanding anything contained in sub-section (1), an officer may order into Force custody any other officer, though such other officer may be of a higher rank, if he engages in a quarrel, affray or disorder.

70. (1) It shall be the duty of every commanding officer to take care that a person under his command when charged with an offence is not detained in custody for more than forty-eight hours after the committal of such person into custody is reported to him, without the charge being investigated, unless investigation in the prescribed procedure, within that period seems to him to be impracticable having regard to the public service.

Duty of commanding officer in regard to detention.

(2) The case of every person being detained in custody beyond a period of forty-eight hours, and the reasons therefor, shall be reported by the commanding officer to the next higher officer or such other officer to whom an application may be made to convene a Force Court for the trial of the person charged.

(3) In reckoning the period of forty-eight hours specified in sub-section (1), Sundays and other public holidays shall be excluded.

(4) The manner in which and the period for which any person subject to this Act may be taken into and detained in Force custody, pending the trial by any competent authority for any offence committed by him, shall be in such manner as may be prescribed.

71. In every case where any such person as is mentioned in section 69 and as is not on active duty, remains in such custody for a longer period than eight days without a Force Court for his trial being convened, a special report giving reasons for the delay shall be made by his commanding officer in the manner prescribed, and a similar report shall be forwarded at intervals of every eight days until a Force Court is convened or such person is released from custody.

Interval between committal and trial.

72. Whenever any person, subject to this Act, who is accused of an offence under this Act, is within the jurisdiction of any magistrate or police officer, such magistrate or police officer shall aid in the apprehension and delivery to Force custody of such person upon receipt of a written application to that effect signed by his commanding officer or an officer authorised by the commanding officer in that behalf.

Arrest by civil authorities.

Capture of  
deserters.

73. (1) Whenever any person subject to this Act deserts, the commanding officer of the unit to which he belongs or is attached, shall give information of the desertion to such civil authorities as, in his opinion, may be able to afford assistance towards the capture of the deserter; and such authorities shall thereupon take steps for the apprehension of the said deserter in like manner as if he were a person for whose apprehension a warrant had been issued by a magistrate, and shall deliver the deserter, when apprehended, into Force custody.

(2) Any police officer may arrest without warrant any person reasonably believed to be subject to this Act, and to be a deserter or to be travelling without authority, and shall bring him without delay before the nearest magistrate, to be dealt with according to law.

Inquiry into  
absence  
without leave.

74. (1) When any person subject to this Act has been absent from duty without due authority for a period of thirty days, a court of inquiry shall, as soon as practicable, be appointed by such authority and in such manner as may be prescribed; and such court shall, on oath or affirmation administered in the prescribed manner, inquire in respect of the absence of the person, and the deficiency, if any, in the property of the Government entrusted to his care, or in any arms, ammunition, equipment, instruments, clothing or accessories; and if satisfied of the fact of such absence without due authority or other sufficient cause, the court shall declare such absence and the period thereof and the said deficiency, if any, and the commanding officer of the unit to which the person belongs or is attached, shall make a record thereof in the prescribed manner.

(2) If the person declared absent does not afterwards surrender or is not apprehended, he shall, for the purposes of this Act, be deemed to be a deserter.

Force Police  
Officers.

75. (1) The Director-General or any prescribed officer may appoint persons (in this Act referred to as Force Police) for discharging the functions specified in sub-sections (2) and (3).

(2) The duties of a person appointed under sub-section (1) are to take charge of persons confined for any offence, to preserve good order and discipline and to prevent breaches of the same by persons serving in, or attached to the Force.

(3) Notwithstanding anything contained in section 69, a person appointed under sub-section (1) may, at any time, arrest and detain for trial any person subject to this Act who commits, or is charged with, an offence, and may also carry into effect any punishment to be inflicted in pursuance of a sentence awarded by a Force Court or by an officer exercising authority under section 56 but shall not inflict any punishment on his own authority.

Provided that no officer shall be so arrested or detained otherwise than on the order of another officer.

## CHAPTER VII

### FORCE COURTS

Kinds of Force  
Courts.

76. For the purposes of this Act, there shall be three kinds of Force Courts, namely:—

- (a) General Force Courts;
- (b) Petty Force Courts; and
- (c) Summary Force Courts,

which shall be convened in the manner prescribed.

Power to  
convene a  
General Force  
Court.

77. A General Force Court may be convened by the Central Government or the Director-General or by any officer empowered in this behalf by warrant of the Director-General.

Power to  
convene a  
Petty Force  
Court.

78. A Petty Force Court may be convened by an officer having power to convene a General Force Court or by an officer empowered in this behalf by warrant of any such officer.

79. A warrant issued under section 77 or section 78 may contain such restrictions, reservations or conditions as the officer issuing it may think fit.

Warrants issued under sections 77 and 78.

80. A General Force Court shall consist of not less than five officers.

Composition of a General Force Court.

81. A Petty Force Court shall consist of not less than three officers.

Composition of a Petty Force Court.

82. (1) A Summary Force Court may be held by the commanding officer of any unit and he alone shall constitute the Court.

Summary Force Court.

(2) The proceedings shall be attended throughout by two other persons who shall be officers or subordinate officers or one of either, and who shall not as such, be sworn or affirmed.

83. (1) If a Force Court after the commencement of a trial is reduced below the minimum number of officers required by this Act, it shall be dissolved.

Dissolution of a Force Court.

(2) If, on account of the illness of the concerned Judge Attorney or, as the case may be, Deputy Judge Attorney-General or Additional Judge Attorney-General or of the accused before the finding, it is impossible to continue the trial, the Force Court shall be dissolved.

(3) The authority or officer who convened a Force Court may dissolve the same if it appears to him that the exigencies of the service or necessities of discipline render it impossible or inexpedient to continue the said Force Court.

(4) Where a Force Court is dissolved under this section, the accused may be tried again.

84. A General Force Court shall have the power to try any person subject to this Act for any offence punishable thereunder and to pass any sentence authorised thereby.

Powers of a General Force Court.

85. A Petty Force Court shall have the power to try any person subject to this Act other than an officer or a subordinate officer for any offence made punishable thereunder and to pass any sentence authorised by this Act other than a sentence of death or imprisonment for a term exceeding two years.

Powers of a Petty Force Court.

86. (1) Subject to the provisions of sub-section (2), a Summary Force Court may try any offence punishable under this Act.

Powers of a Summary Force Court.

(2) When there is no grave reason for immediate action and reference can without detriment to discipline be made to the officer empowered to convene a Petty Force Court for the trial of the alleged offender, an officer holding a Summary Force Court shall not try without such reference any offence punishable under any of the sections 16, 19 and 49, or any offender against the officer holding the Court.

(3) A Summary Force Court may try any person subject to this Act and under the command of the officer holding the Court, except an officer or a subordinate officer.

(4) A Summary Force Court may pass any sentence which may be passed under this Act, except the sentence of death or of imprisonment for a term exceeding the limit specified in sub-section (5).

(5) The limit referred to in sub-section (4) shall be,—

(a) one year, if the officer holding the Force Court holds the rank not below that of a Commandant;

(b) three months, in any other case.

Prohibition of second trial.

87. (1) When any person, subject to this Act has been acquitted or convicted of an offence by a Force Court or by a criminal court or has been dealt with under section 56 or section 58, he shall not be liable to be tried again for the same offence by a Force Court or dealt with under the said sections.

(2) When any person, subject to this Act, has been acquitted or convicted of an offence by a Force Court or has been dealt with under section 56 or section 58, he shall not be liable to be tried again by a criminal court for the same offence or on the same facts.

Period of limitation for trial.

88. (1) Except as provided by sub-section (2), no trial by a Force Court of any person subject to this Act for any offence shall be commenced after the expiration of a period of three years from the date of such offence.

(2) The provisions of sub-section (1) shall not apply to a trial for an offence of desertion or for any of the offences mentioned in section 19.

(3) In the computation of the period of time mentioned in sub-section (1), any time spent by such person in evading arrest after the commission of the offence, shall be excluded.

Trial, etc., of offender who ceases to be subject to this Act.

89. (1) Where an offence under this Act had been committed by any person while subject to this Act, and he has ceased to be so subject, he may be taken into and kept in Force custody and tried and punished for such offence as if he continued to be so subject.

(2) No such person shall be tried for an offence, unless his trial commences within six months after he had ceased to be subject to this Act:

Provided that nothing contained in this sub-section shall apply to the trial of any such person for an offence of desertion or for any of the offences mentioned in section 19 or shall affect the jurisdiction of a criminal court to try any offence triable by such court as well as by a Force Court.

Application of Act during term of sentence.

90. (1) When a person subject to this Act is sentenced by a Force Court to imprisonment, this Act shall apply to him during the term of his sentence, though he is dismissed from the Force, or has otherwise ceased to be subject to this Act, and he may be kept, removed, imprisoned and punished as if he continued to be subject to this Act.

(2) When a person subject to this Act is sentenced by a Force Court to death, this Act shall apply to him till the sentence is carried out.

Place of trial, etc.

91. (1) Any person subject to this Act who commits any offence under this Act may be tried and punished for such offence at any place.

(2) The persons by whom an accused may be defended in a trial and appearance of such persons thereat may be as prescribed.

Choice between criminal court and Force Court.

92. When a criminal court and a Force Court have each jurisdiction in respect of an offence, it shall be in the discretion of the Director-General, Additional Director-General or the Inspector-General or the Deputy Inspector-General or the Additional Deputy Inspector-General within whose command the accused person is serving or such other officer as may be prescribed, to decide before which court the proceedings shall be instituted, and if that officer decides that they shall be instituted before a Force Court, then he may direct that the accused person shall be detained in Force custody.

Power of criminal court to require delivery of offender.

93. (1) When a criminal court having jurisdiction is of opinion that proceedings shall be instituted before itself in respect of any alleged offence, it may, by written notice, require the officer referred to in section 92 at his option, either to deliver over the offender to the nearest magistrate to be proceeded against according to law, or to postpone proceedings, pending a reference to the Central Government.

(2) In every such case the said officer shall either deliver over the offender in compliance with the requisition, or shall forthwith refer the question as to the court before which the proceedings are to be instituted, for the determination of the Central Government whose order upon such reference shall be final.



## CHAPTER VIII

## PROCEDURE OF FORCE COURTS

94. At every General Force Court or Petty Force Court, the senior member shall be the presiding officer. Presiding officer.

95. (1) Every General Force Court shall, and every Petty Force Court may be attended by a Judge Attorney or a Deputy Judge Attorney-General or an Additional Judge Attorney-General, or, if no such officer is available, an officer approved by the Judge Attorney-General or by any officer authorised in this behalf by the Judge Attorney-General. Judge Attorneys.

(2) The recruitment and conditions of service of Judge Attorney-General, Additional Judge Attorney-General, Deputy Judge Attorney-General and Judge Attorney shall be such as may be prescribed.

96. (1) At all trials by a General Force Court or by a Petty Force Court, as soon as the Court is assembled, the names of the presiding officer and members shall be read over to the accused, who shall thereupon be asked whether he objects to being tried by any officer sitting on the Court. Objections.

(2) If the accused objects to such officer, his objection and also the reply thereto of the officer objected to shall be heard and recorded, and the remaining officers of the Court shall, in the absence of the challenged officer decide on the objection.

(3) If the objection is allowed by one-half or more of the votes of the officers entitled to vote, the objection shall be allowed, and the member objected to shall retire, and his vacancy may be filled in the prescribed manner, by another officer subject to the same right of the accused to object.

(4) When no objection is made, or when an objection has been made and disallowed, or the vacancy of an officer has been filled by another officer under sub-section (3) to which no objection is made or allowed, the Court shall proceed with the trial.

97. (1) An oath or affirmation in the prescribed manner shall be administered to every member of the Force Court and to the Judge Attorney, or, as the case may be, the Deputy Judge Attorney-General or the Additional Judge Attorney-General or the officer approved under section 95, before the commencement of the trial. Oath of members, Judge Attorneys and witnesses.

(2) Every person giving evidence before a Force Court shall be examined after being duly sworn or affirmed in the prescribed form.

(3) The provisions of sub-section (2) shall not apply where the witness is a child under twelve years of age and the Force Court is of opinion that though the witness understands the duty of speaking the truth, he does not understand the nature of an oath or affirmation.

98. (1) Subject to the provisions of sub-sections (2) and (3), every decision of a Force Court shall be passed by an absolute majority of votes; and where there is an equality of votes on either the finding or the sentence, the decision shall be in favour of the accused. Voting by members.

(2) No sentence of death shall be passed by a General Force Court without the concurrence of at least two-thirds of the members of the Court.

(3) In matters other than an objection or the finding or sentence, the presiding officer shall have a casting vote.

1 of 1872.

99. The Indian Evidence Act, 1872, shall, subject to the provisions of this Act, apply to all proceedings before a Force Court. General rule as to evidence.

100. A Force Court may take judicial notice of any matter within the general knowledge of the members as officers of the Force. Judicial notice.

Summoning of witnesses.

101. (1) The convening officer or the presiding officer of a Force Court or the Judge Attorney or, as the case may be, the Deputy Judge Attorney-General or the Additional Judge Attorney-General or the officer approved under section 95 or the commanding officer of the accused person may, by summons under his hand, require the attendance, at a time and place to be mentioned in the summons, of any person either to give evidence or to produce any document or other thing.

(2) In the case of a witness who is subject to this Act or any other Act relating to the armed forces of the Union, the summons shall be sent to his commanding officer and such officer shall serve it upon him accordingly.

(3) In the case of any other witness, the summons shall be sent to the magistrate within whose jurisdiction he may be, or resides, and such magistrate shall give effect to the summons as if the witness were required in the court of such a magistrate.

(4) When a witness is required to produce any particular or other thing in his possession or power, the summons shall describe it with reasonable precision.

Documents exempted from production.

102. (1) Nothing in section 101 shall be deemed to affect the operation of sections 123 and 124 of the Indian Evidence Act, 1872, or to apply to any letter, postcard, telegram or other document in the custody of the postal or telegraph authorities. 1 of 1872.

(2) If any document in such custody is, in the opinion of any District Magistrate, Chief Metropolitan Magistrate, Chief Judicial Magistrate, Court of Sessions or High Court wanted for the purpose of any Force Court, such Magistrate or Court may require the postal or telegraph authorities, as the case may be, to deliver such document to such person as such Magistrate or Court may direct.

(3) If any such document is, in the opinion of any other magistrate or of any Commissioner of Police or District Superintendent of Police, wanted for any such purpose, he may require the postal or telegraph authorities, as the case may be, to cause such search to be made for, and to detain such document pending the orders of any such District Magistrate, Chief Metropolitan Magistrate, Chief Judicial Magistrate, Court of Sessions or High Court.

Commission for examination of witnesses.

103. (1) Whenever, in the course of a trial by a Force Court, it appears to the Court that the examination of a witness is necessary for the ends of justice, and that the attendance of such witness cannot be procured without an amount of delay, expense or inconvenience which, in the circumstances of the case, would be unreasonable, such Court may address the Judge Attorney-General in order that a commission to take the evidence of such witness may be issued.

(2) The Judge Attorney-General may then, if he thinks necessary, issue a commission to any Metropolitan Magistrate or Judicial Magistrate of the first class, within the local limits of whose jurisdiction such witness resides, to take the evidence of such witness.

(3) The Magistrate to whom the commission is issued, or, if he is the Chief Metropolitan Magistrate, or Chief Judicial Magistrate, or such Metropolitan Magistrate, or Judicial Magistrate, as he appoints in this behalf, shall summon the witness before him or proceed to the place where the witness is, and shall take down his evidence in the same manner, and may for this purpose exercise the same powers, as in the trials of warrant-cases under the Code of Criminal Procedure, 1973. 2 of 1974.

(4) When the witness resides in a tribal area or in any place outside India, the commission may be issued in the manner specified in Chapter XXIII of the Code of Criminal Procedure, 1973. 2 of 1974.

Examination of a witness on commission.

104. (1) The prosecutor and the accused person in any case in which a commission is issued under section 103 may respectively forward any interrogatories in writing which the court may think relevant to the issue, and the Magistrate executing the commission shall examine the witness upon such interrogatories.

(2) The prosecutor and the accused person may appear before such Magistrate by counsel, or, except in the case of an accused person in custody, in person, and may examine, cross-examine and re-examine, as the case may be, the said witness.

(3) After a commission issued under section 103 has been duly executed, it shall be returned, together with the deposition of the witness examined thereunder to the Judge Attorney-General.

(4) On receipt of a commission, and deposition returned under sub-section (3), the Judge Attorney-General shall forward the same to the Court at whose instance the commission was issued or, if such Court has been dissolved, to any other Court convened for the trial of the accused person; and the commission, the return thereto and the deposition shall be open to inspection by the prosecutor and the accused person, and may, subject to all just exceptions, be read in evidence in the case by either the prosecutor or the accused, and shall form part of the proceedings of the Court.

(5) In every case in which a commission is issued under section 103, the trial may be adjourned for specified time reasonably sufficient for the execution and return of the commission.

105. A person charged before a Force Court with—

Conviction for offences not charged.

(a) desertion may be found guilty of attempting to desert or of being absent without leave;

(b) attempting to desert may be found guilty of being absent without leave;

(c) using criminal force may be found guilty of assault;

(d) using threatening language may be found guilty of using insubordinate language;

(e) any one of the offences specified in clauses (a), (b), (c) and (d) of section 33 may be found guilty of any other of these offences with which he might have been charged;

(f) an offence punishable under section 49 may be found guilty of any other offence of which he might have been found guilty, if the provisions of the Code of Criminal Procedure, 1973 were applicable.

(g) any offence under this Act may, on failure of proof of an offence having been committed in circumstances involving a more severe punishment, be found guilty of the same offence as having been committed in circumstances involving a less severe punishment;

(h) any offence under this Act may be found guilty of having attempted or abetted the commission of that offence, although the attempt or abetment is not separately charged.

106. In any proceeding under this Act, any application, certificate, warrant, reply or other document purporting to be signed by an officer in the service of the Government shall, on production, be presumed to have been duly signed by the person by whom and in the character in which it purports to have been signed, until the contrary is shown.

Presumption as to signatures.

107. (1) Any enrolment paper purporting to be signed by an enrolling officer shall, in proceedings under this Act, be evidence of the person enrolling having given the answers to questions which he is therein represented as having given.

Enrolment paper.

(2) The enrolment of such person may be proved by the production of the original or a copy of this enrolment paper purporting to be certified to be a true copy by the office having the custody of the enrolment paper or service record.

Presumption  
as to certain  
documents.

108. (1) A letter, return or other document respecting the service of any person in, or the dismissal, removal or discharge of any person from, any unit of the Force, or respecting the circumstances of any person not having served in, or belonged to, any unit of the Force, if purporting to be signed by or on behalf of the Central Government or the Director-General, or by any prescribed officer, shall be evidence of the facts stated in such letter, return or other document.

(2) A Force List or Gazette purporting to be published by authority shall be evidence of the status and rank of the officers, subordinate officers therein mentioned, and of any appointment held by them and of the battalion, unit, or branch of the Force to which they belong.

(3) Where a record is made in any battalion book in pursuance of this Act or of any rules made thereunder or otherwise in the discharge of official duties, and purports to be signed by the commanding officer or by the officers whose duty it is to make such record, such record shall be evidence of the facts therein stated.

(4) A copy of any record in any office of the Force purporting to be certified to be true copy by the officer having custody of such book shall be evidence of such record.

(5) Where any person subject to this Act is being tried on a charge of desertion or of absence without leave, and such person has surrendered himself into the custody of any officer or other person, subject to this Act, or any unit of the Force, or has been apprehended by such officer or person, a certificate purporting to be signed by such officer, or by the commanding officer of the unit to which such person belongs or is attached, as the case may be, and stating the fact, date and place of such surrender or apprehension, and the manner in which he was dressed shall be evidence of the matters so stated.

(6) Where any person subject to this Act is being tried on a charge of desertion or of absence without leave and such person has surrendered himself into the custody of, or has been apprehended by, a police officer not below the rank of an officer in charge of a police station, a certificate purporting to be signed by such police officer and stating the fact, date and place of such surrender or apprehension and the manner in which he was dressed shall be evidence of the matters so stated.

(7) (a) Any document purporting to be a report under the hand of a Government scientific expert to whom this sub-section applies, upon any matter or thing duly submitted to him for examination or analysis and report in the course of any proceeding under this Act, may be used as evidence in any inquiry, trial or other proceeding under this Act.

(b) The Force Court may, if it thinks fit, summon and examine any such expert as to the subject matter of his report.

(c) Where any such expert is summoned by a Force Court and he is unable to attend personally, he may, unless the Court has expressly directed him to appear personally, depute an officer who is conversant with the facts of the case to depose in the Court on his behalf.

(d) This sub-section applies to the Government scientific expert, for the time being specified in sub-section (4) of section 293 of the Code of Criminal Procedure, 1973.

2 of 1974.

Reference by  
accused to  
Government  
officer.

109. (1) If at any trial for desertion or absence without leave, over-staying leave or not rejoining when warned for service, the accused person states in his defence any sufficient or reasonable excuse for his unauthorised absence, and refers in support thereof to any officer in the service of the Government, or if it appears that any such officer is likely to prove or disprove the said statement in the defence, the Court shall address such officer and adjourn the proceedings until his reply is received.

(2) The written reply of any officer so referred to shall, if signed by him, be received in evidence and have the same effect as if made on oath before the Court.



(3) If the Court is dissolved before the receipt of such reply or if the Court omits to comply with the provisions of this section, the convening officer may, at his discretion, annul the proceedings and order a fresh trial.

110. (1) When any person subject to this Act has been convicted by a Force Court of any offence, such Force Court may inquire into, and receive, and record evidence of any previous convictions of such person, either by a Force Court or by a criminal court, or any previous award of punishment under section 56 or section 58, and may further inquire into and record the general character of such person and such other matters as may be prescribed.

Evidence of previous convictions and general character.

(2) Evidence received under this section may be either oral, or in the shape of entries in, or certified extracts from, books of Force Courts or other official record; and it shall not be necessary to give notice before trial to the person tried that evidence as to his previous convictions or character will be received.

(3) At a Summary Force Court, the officer holding the trial may, if he thinks fit, record any previous convictions against the offender, his general character, and such other matters as may be prescribed, as of his own knowledge, instead of requiring them to be proved under the foregoing provisions of this section.

111. (1) Whenever, in the course of a trial by a Force Court, it appears to the Court that the person charged is by reason of unsoundness of mind incapable of making his defence, or that he committed the act alleged but was by reason of unsoundness of mind incapable of knowing the nature of the act or knowing that it was wrong or contrary to law, the Court shall record a finding accordingly.

Lunacy of accused.

(2) The presiding officer of the Court, or, in the case of a Summary Force Court, the officer holding the trial, shall forthwith report the case to the confirming officer, or to the authority empowered to deal with its finding under section 129, as the case may be.

(3) The confirming officer to whom the case is reported under sub-section (2) may, if he does not confirm the finding, take steps to have the accused person tried by the same or another Force Court for the offence with which he was charged.

(4) The authority to whom the finding of a Summary Force Court is reported under sub-section (2) and a confirming officer confirming the finding in any case so reported to him shall order the accused person to be kept in custody in the prescribed manner and shall report the case for the orders of the Central Government.

(5) On receipt of a report under sub-section (4), the Central Government may order the accused person to be detained in a lunatic asylum or other suitable place of safe custody.

112. Where any accused person, having been found by reason of unsoundness of mind to be incapable of making his defence, is in custody or under detention under section 111, any officer prescribed in this behalf, may—

Subsequent fitness of lunatic accused for trial.

(a) if such person is in custody under sub-section (4) of section 111, on the report of a medical officer that he is capable of making his defence, or

(b) if such person is detained in a jail under sub-section (5) of section 111, on a certificate of the Inspector-General of Prisons, and if such person is detained in a lunatic asylum under the said sub-section, on a certificate of any two or more of the visitors of such asylum and if he is detained in any other place under that sub-section, on a certificate of the prescribed authority, that he is capable of making his defence, take steps to have such person tried by the same or another Force Court for the offence with which he was originally charged or, if the offence is a civil offence, by a criminal court.

Transmission  
to Central  
Government of  
order under  
section 112.

113. A copy of every order made by an officer under section 112 for the trial of the accused shall forthwith be sent to the Central Government.

Release of  
lunatic  
accused.

114. Where any person is in custody under sub-section (4) of section 111 or under detention under sub-section (5) of that section,—

(a) if such person is in custody under the said sub-section (4), on the report of a medical officer, or

(b) if such person is detained under the said sub-section (5), on a certificate from any of the authorities mentioned in clause (b) of section 112 that in the judgment of such officer or authority such person may be released without danger of his causing injury to himself or to any other person,

the Central Government may order that such person be released or detained in custody or transferred to a public lunatic asylum if he has not already been sent to such an asylum.

Delivery of  
lunatic  
accused to  
relatives.

115. Where any relative or friend of any person who is in custody under sub-section (4) of section 111 or under detention under sub-section (5) of that section desires that he should be delivered to his care and custody, the Central Government may, upon application by such relative or friend and, on his giving security to the satisfaction of that Government that the person delivered shall be properly taken care of, and, prevented from doing injury to himself or to any other person, and be produced for the inspection of such officer, and at such times and places, as the Central Government may direct, order such person to be delivered to such relative or friend.

Order for  
custody and  
disposal of  
property  
pending trial.

116. When any property regarding which any offence appears to have been committed, or which appears to have been used for the commission of any offence, is produced before a Force Court during a trial, the Court may make such order as it thinks fit for the proper custody of such property pending the conclusion of the trial, and if the property is subject to speedy or natural decay may, after recording such evidence as it thinks necessary, order it to be sold or otherwise disposed of.

Order for  
disposal of  
property  
regarding  
which offence  
is committed.

117. (1) After the conclusion of a trial before any Force Court, the Court or the officer confirming the finding or sentences of such Force Court, or any authority superior to such officer, or, in the case of Summary Force Court whose finding or sentences does not require confirmation, an officer not below the rank of Additional Deputy Inspector-General within whose command the trial was held, may make such order as it or he thinks fit for the disposal by destruction, confiscation, delivery to any person claiming to be entitled to possession thereof, or otherwise, of any property or document produced before the Court or in its custody, or regarding which any offence appears to have been committed or which has been used for the commission of any offence.

(2) Where any order has been made under sub-section (1) in respect of property regarding which an offence appears to have been committed, a copy of such order, signed and certified by the authority making the same may, whether the trial was held within India or not, be sent to a magistrate within whose jurisdiction such property for the time being is situated, and such magistrate shall thereupon cause the order to be carried into effect as if it were an order passed by him under the provisions of the Code of Criminal Procedure, 1973.

2-of 1974.

(3) In this section the term "property" includes, in the case of property regarding which an offence appears to have been committed, not only such property as has been originally in the possession or under the control of any person, but also any property into or for which the same may have been converted or exchanged, and anything acquired by such conversion or exchange whether immediately or otherwise.

45 of 1860.

2 of 1974.

118. Any trial by a Force Court under the provisions of this Act shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code and the Force Court shall be deemed to be a Court within the meaning of sections 345 and 346 of the Code of Criminal Procedure, 1973.

Powers of Force Court in relation to proceedings under this Act.

119. (1) With a view to obtaining the evidence of any person supposed to have been directly or indirectly concerned in or privy to an offence triable by a Force Court other than a Summary Force Court under this Act, the commanding officer, the convening officer or the Force Court, at any stage of investigation or inquiry into or the trial of, the offence, may tender a pardon to such person on condition of his making a full and true disclosure of the whole of the circumstances within his knowledge relating to the offence and to every other person concerned, whether as principal or abettor, in the commission thereof.

Tender of pardon to accomplices.

(2) The commanding officer or the convening officer who tenders pardon under sub-section (1) shall record,—

(a) his reasons for so doing;

(b) whether the tender was or was not accepted by the person to whom it was made, and shall, on application made by accused, furnish him with a copy of such record free of cost.

(3) Every person accepting a tender of pardon made under sub-section (1)—

(a) shall be examined as a witness by the commanding officer of the accused and in the subsequent trial, if any;

(b) may be detained in Force custody until the termination of the trial.

120. (1) Where, in regard to a person who has accepted a tender of pardon made under section 119, the Judge Attorney, or as the case may be, the Deputy Judge Attorney-General, or the Additional Judge Attorney-General, or the officer approved under section 95, certifies that in his opinion such person has, either by wilfully concealing anything essential or by giving false evidence, not complied with the conditions on which the tender was made, such person may be tried for the offence in respect of which the pardon was so tendered or for any other offence of which he appears to have been guilty in connection with the same matter, and also for the offence of giving false evidence:

Trial of person not complying with conditions of pardon.

Provided that such person shall not be tried jointly with any of the other accused.

(2) Any statement made by such person accepting the tender of pardon and recorded by his commanding officer or Force Court may be given in evidence against him at such trial.

(3) At such trial, the accused shall be entitled to plead that he has complied with the condition upon which such tender was made; in which case it shall be for the prosecution to prove that the condition has not been complied with.

(4) At such trial, the Force Court shall, before arraignment, ask the accused whether he pleads that he has complied with the conditions on which the tender of pardon was made.

(5) If the accused does so plead, the Court shall record the plea and proceed with the trial and it shall, before giving its finding on the charge, find whether or not the accused has complied with the conditions of the pardon, and, if it finds that he has so complied, it shall give a verdict of not guilty.

## CHAPTER IX

### CONFIRMATION AND REVISION OF PROCEEDINGS

121. No finding or sentence of a General Force Court or a Petty Force Court shall be valid except so far as it may be confirmed as provided by this Act.

Finding and sentence not valid unless confirmed.

Power to confirm finding and sentence of General Force Court.

122. The findings and sentences of General Force Courts may be confirmed by the Central Government or by any officer empowered in this behalf by warrant of the Central Government.

Power to confirm finding and sentence of Petty Force Court.

123. The findings and sentences of a Petty Force Court may be confirmed by an officer having power to convene a General Force Court or by any officer empowered in this behalf by warrant of such officer.

Limitation of powers of confirming authority.

124. A warrant issued under section 122 or section 123 may contain such restrictions, reservations or condition as the authority issuing it may think fit.

Power of confirming authority to mitigate, remit or commute sentences.

125. Subject to such restrictions, reservations or conditions, as may be contained in any warrant issued under section 122 or section 123, a confirming authority may, when confirming the sentence of a Force Court, mitigate or remit the punishment thereby awarded or commute that punishment for any punishment or punishments lower in the scale laid down in section 51.

Confirming of findings and sentences on board a ship.

126. When any person subject to this Act is tried and sentenced by a Force Court while on board a ship, the finding and sentence so far as not confirmed and executed on board the ship, may be confirmed and executed in like manner as if such person had been tried at the port of disembarkation.

Revision of finding or sentence.

127. (1) Any finding or sentence of a Force Court which requires confirmation may be once revised by order of the confirming authority and on such revision, the Court, if so directed by the confirming authority, may take additional evidence.

(2) The Court on revision, shall consist of the same officers as were present when the original decision was passed unless any of those officers are unavoidably absent.

(3) In case of such unavoidable absence the cause thereof shall be duly certified in the proceedings and the Court shall proceed with the revision provided that, in the case of a General Force Court it consists of five officers and in the case of a Petty Force Court, of three officers.

Finding and sentence of a Summary Force Court.

128. The finding and sentence of a Summary Force Court shall not require to be confirmed, but may be carried out forthwith.

Transmission of proceedings of Summary Force Court.

129. The proceedings of every Summary Force Court shall be forwarded without delay to the officer not below the rank of Additional Deputy Inspector-General within whose command the trial was held, or to the prescribed officer, and such officer, or the Director-General or any officer empowered by him in this behalf may, for reasons based on the merits of the case, but not on merely technical grounds, set aside the proceedings, or reduce the sentence to any other sentence which the Court might have passed.

Alteration of finding or sentence in certain cases.

130. (1) Where a finding of guilty by a Force Court, which has been confirmed or which does not require confirmation, is found for any reason to be invalid or cannot be supported by the evidence, the authority which would have had power under section 142 to commute the punishment awarded by the sentence, if the finding had been valid may substitute a new finding and pass a sentence for the offence specified or involved in such finding:

Provided that no such substitution shall be made unless such finding could have been validly made by the Force Court on the charge and unless it appears that the Force Court must have been satisfied of the facts establishing the said offence.

(2) Where a sentence passed by a Force Court which has been confirmed, or which does not require confirmation, not being a sentence passed in pursuance of a new finding



substituted under sub-section (1), is found for any reason to be invalid, the authority referred to in sub-section (1) may pass a valid sentence.

(3) The punishment awarded by a sentence passed under sub-section (1) or sub-section (2) shall not be higher in the scale of punishments than, or in excess of, the punishment awarded by, the sentence for which a new sentence is substituted under this section.

(4) Any finding substituted, or any sentence passed, under this section shall, for the purposes of this Act and the rules, have effect as if it were a finding or sentence, as the case may be, of a Force Court.

131. (1) Any person subject to this Act who considers himself aggrieved by any order passed by any Force Court may present a petition to the officer or authority empowered to confirm any finding or sentence of such Force Court, and the confirming authority may take such steps as may be considered necessary to satisfy itself as to the correctness, legality or propriety of the order passed or as to the regularity of any proceeding to which the order relates.

Petition  
against order,  
finding or  
sentence of  
Force Court.

(2) Any person subject to this Act who considers himself aggrieved by a finding or sentence of any Force Court which has been confirmed, may present a petition to the Central Government, the Director-General or any prescribed officer superior in command to the one who confirmed such finding or sentence, and the Central Government, the Director-General, or the prescribed officer, as the case may be, may pass such order thereon as it or he thinks fit.

132. The Central Government, the Director-General or any prescribed officer may annul the proceedings of any Force Court on the ground that they are illegal or unjust.

Annulment of  
proceedings.

## CHAPTER X

### EXECUTION OF SENTENCES, PARDONS, REMISSIONS, ETC.

133. In executing a sentence of death, a Force Court shall, in its discretion direct that the offender shall suffer death by being hanged by the neck until he be dead, or shall suffer death by being shot to death.

Execution of  
sentence of  
death.

134. Whenever any person is sentenced by a Force Court under this Act to imprisonment, the term of his sentence shall, whether it has been revised or not, be reckoned to commence on the day on which the original proceedings were signed by the presiding officer, or in the case of a Summary Force Court, by the Court:

Commencement  
of sentence of  
imprisonment.

Provided that if for any reason beyond the control of the commanding officer or superior officer, the sentence of imprisonment cannot be executed in full or in part, the convict shall be liable to undergo the whole or unexpired portion of sentence, as the case may be, when it becomes possible to carry out the same:

Provided further that the period of detention or confinement, if any, undergone by an accused person during the investigation, inquiry or trial of the case in which he is sentenced and before the date of which the original proceedings were signed shall be set off against the term of his sentence and the liability of such person to undergo imprisonment shall be restricted to the remainder, if any of the term of his sentence.

135. (1) Whenever any sentence of imprisonment is passed under this Act by a Force Court or whenever any sentence of death is commuted to imprisonment, the confirming officer or in case of a Summary Force Court the officer holding the Court or such other officer as may be prescribed shall, save as otherwise provided in sub-sections (3) and (4), direct that the sentence shall be carried out by confinement in a civil prison.

Execution of  
sentence of  
imprisonment.

(2) When a direction has been made under sub-section (1), the commanding officer of the person under sentence or such other officer as may be prescribed shall forward a warrant in the prescribed form to the officer in charge of the prison in which such person is to be confined and shall arrange for his despatch to such prison with the warrant.

(3) In the case of a sentence of imprisonment for a period not exceeding three months and passed under this Act by a Force Court, the appropriate officer under sub-section (1) may direct that the sentence shall be carried out by confinement in Force custody instead of in a civil prison.

(4) On active duty, a sentence of imprisonment may be carried out by confinement in such place as the officer not below the rank of Additional Deputy Inspector-General within whose command the person sentenced is serving or any prescribed officer may from time to time appoint.

Temporary custody of convict.

136. Where a sentence of imprisonment is directed to be undergone in a civil prison, the convict may be kept in Force custody or in any other fit place till such time as it is possible to send him to a civil prison.

Execution of sentence of imprisonment in special cases.

137. Whenever, in the opinion of an officer not below the rank of Additional Deputy Inspector-General within whose command the trial is held, any sentence or portion of a sentence of imprisonment cannot for special reasons conveniently be carried out in Force custody in accordance with the provisions of section 135, such officer may direct that such sentence or portion of sentence shall be carried out by confinement in any civil prison or other fit place.

Conveyance of prisoner from place to place.

138. A person under sentence of imprisonment may during his conveyance from place to place or when on board a ship, aircraft, or otherwise, be subjected to such restraint as is necessary for his safe conduct and removal.

Communication of certain orders to prison officers.

139. Whenever an order is duly made under this Act setting aside or varying any sentence, order or warrant under which any person is confined in a civil prison, a warrant in accordance with such order shall be forwarded by the officer making the order or his staff officer or such other person as may be prescribed, to the officer in charge of the prison in which such person is confined.

Recovery of fine.

140. When a sentence of fine is imposed by a Force Court under section 49, a copy of such sentence signed and certified by the confirming officer, or where no confirmation is required, by the officer holding the trial may be sent to any magistrate in India, and such magistrate shall thereupon cause the fine to be recovered in accordance with the provisions of the Code of Criminal Procedure, 1973, as if it were a sentence of fine imposed by such magistrate.

2 of 1974.

Informality or error in order or warrant.

141. Whenever any person is sentenced to imprisonment under this Act, and is undergoing the sentence in any place or manner in which he might be confined under a lawful order or warrant in pursuance of this Act, the confinement of such person shall not be deemed to be illegal only by reason of informality or error in, or as respects the order, warrant or other document, or the authority by which, or in pursuance whereof such person was brought into, or, is confined in any such place, and any such order, warrant or document may be amended accordingly.

Pardon and remission.

142. When any person subject to this Act has been convicted by a Force Court of any offence, the Central Government or the Director-General or, in the case of a sentence, which he could have confirmed or which did not require confirmation, an officer not below the rank of Additional Deputy Inspector-General within whose command such person at the time of conviction was serving, or the prescribed officer may,—

(a) either with or without conditions which the person sentenced accepts, pardon the person or remit the whole or any part of the punishments awarded; or

(b) mitigate the punishment awarded; or

(c) commute such punishment for any less punishment or punishments mentioned in this Act; or

(d) either with or without conditions which the person sentenced accepts, release the person on parole.



143. (1) If any condition on which a person has been pardoned or released on parole or a punishment has been remitted is, in the opinion of the authority which granted the pardon, release or remission, not fulfilled, such authority may cancel the pardon, release or remission, and thereupon the sentence of the Court shall be carried into effect as if such pardon, release or remission had not been granted.

Cancellation of conditional pardons, release on parole or remission.

(2) A person whose sentence of imprisonment is carried into effect under the provisions of sub-section (1) shall undergo such imprisonment only for the unexpired portion of his sentence.

144. (1) Where a person subject to this Act is sentenced by a Force Court to imprisonment, the Central Government, the Director-General or any officer empowered to convene a General Force Court may suspend the sentence whether or not the offender has already been committed to prison or to Force custody.

Suspension of sentence of imprisonment.

(2) The authority or officer specified in sub-section (1) may, in the case of an offender so sentenced direct that until the orders of such authority or officer have been obtained, the offender shall not be committed to prison or to Force custody.

(3) The powers conferred by sub-sections (1) and (2) may be exercised in the case of any such sentence which has been confirmed, reduced or commuted.

145. (1) Where the sentence referred to in section 144 is imposed by a Force Court other than a Summary Force Court, the confirming officer may, when confirming the sentence, direct that the offender be not committed to prison or to Force custody until the orders of the authority or officer specified in section 144 have been obtained.

Orders pending suspension of sentence.

(2) Where a sentence of imprisonment is imposed by a Summary Force Court, the officer holding the trial may make the direction referred to in sub-section (1).

146. Where a sentence is suspended under section 144, the offender shall forthwith be released from custody.

Release on suspension of sentence.

147. Any period during which the sentence is under suspension shall be reckoned as part of the term of such sentence.

Computation of period of sentence.

148. The authority or officer specified in section 144 may, at any time while a sentence is suspended, order—

Order after suspension of sentence.

(a) that the offender be committed to undergo the unexpired portion of the sentence; or

(b) that the sentence be remitted.

149. (1) Where a sentence has been suspended, the case may at any time, and shall at intervals of not more than four months, be reconsidered by the authority or officer not below the rank of an Additional Deputy Inspector-General duly authorised by the authority or officer specified in section 144.

Reconsideration of case after suspension of sentence.

(2) Where on such reconsideration by the officer so authorised, it appears to him that the conduct of offender since his conviction has been such as to justify a remission of sentence, he shall refer the matter to the authority or officer specified in section 144.

150. Where an offender, while a sentence on him is suspended under this Act, is sentenced for any other offence, then—

Fresh sentence after suspension.

(a) if the further sentence is also suspended under this Act, the two sentences shall run concurrently;

(b) if the further sentence is for a period of three months or more and is not suspended under this Act, the offender shall also be committed to prison or Force

custody for the unexpired portion of the previous sentence, but both sentences shall run concurrently; and

(c) if the further sentence is for a period of less than three months and is not suspended under this Act, the offender shall be so committed on that sentence only, and the previous sentence shall, subject to any order which may be passed under section 148 or section 149, continue to be suspended.

Scope of power of suspension of sentence.

151. The powers conferred by sections 144 and 148 shall be in addition to, and not in derogation of, the power of mitigation, remission and commutation.

Effect of suspension and remission of sentence on dismissal.

152. (1) Where in addition to any other sentence the punishment of dismissal has been awarded by a Force Court, and such other sentence is suspended under section 144, then, such dismissal shall not take effect until so ordered by the authority or officer specified in section 144.

(2) If such other sentence is remitted under section 148, the punishment of dismissal shall also be remitted.

## CHAPTER XI

### MISCELLANEOUS

Powers and duties conferrable and imposable on members of the Force.

153. (1) The Central Government may, by general or special order published in the Official Gazette, direct that, subject to such conditions and limitations as may be specified in the order, any member of the Force may exercise or discharge such of the powers or duties under any Central Act as may be specified in the said order, being the powers and duties which, in the opinion of the Central Government, an officer of the corresponding or lower rank is by such Central Act empowered to exercise or discharge for the said purposes.

(2) The Central Government may, by general or special order published in the Official Gazette, confer or impose, with the concurrence of the State Government concerned, any of the powers or duties which may be exercised or discharged under a State Act by a police officer upon a member of the Force who, in the opinion of the Central Government, holds a corresponding or higher rank.

(3) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the order or both Houses agree that the order should not be made, the order shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that order.

Protection for acts of members of the Force.

154. (1) In any suit or proceeding against any member of the Force for any act done by him in pursuance of a warrant or order of a competent authority, it shall be lawful for him to plead that such act was done by him under the authority of such warrant or order.

(2) Any such plea may be proved by the production of the warrant or order directing the act, and if it is so proved, the member of the Force shall thereupon be discharged from liability in respect of the act so done by him, notwithstanding any defect in the jurisdiction of the authority which issued such warrant or order.

(3) Notwithstanding anything contained in any other law for the time being in force, any legal proceeding (whether civil or criminal) which may lawfully be brought against any member of the Force for anything done or intended to be done under the powers conferred by, or in pursuance of any provision of this Act or the rules, shall be commenced within three months after the act complained of was committed and not otherwise, and notice in writing of



such proceeding and of the cause thereof shall be given to the defendant or his superior officer at least one month before the commencement of such proceeding.

155. (1) The Central Government may, by notification, make rules for the purpose of carrying out the provisions of this Act. Power to make rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for—

- (a) the manner of constitution of the Force and conditions of service of its members under section 4;
- (b) superintendence, direction and control of the Force under section 5;
- (c) the persons to be enrolled to the Force, mode of enrolment and procedure thereof under section 6;
- (d) the authority, to whom resignation to be submitted and the permission for withdrawal from duty to be obtained from, under section 8;
- (e) the dismissal, removal and reduction in rank of persons under section 11;
- (f) the authority and other matters required to be prescribed under section 13;
- (g) the amount and the incidence of fine to be imposed under section 60;
- (h) the manner and extent of deductions from pay and allowances and the authority therefor under section 66;
- (i) the procedure of investigation of an offence and the manner and period of detention of persons under section 70;
- (j) the manner of making the report by the commanding officer in respect of delay in convening Force Court under section 71;
- (k) the authority to appoint the court of inquiry and the manner of appointment thereof under section 74;
- (l) the manner of convening Force Courts under section 76;
- (m) the persons by whom an accused may be defended in a trial and appearance of such persons under section 91;
- (n) the recruitment and conditions of service of the Judge Attorney-General, Deputy Judge Attorney-General, Additional Judge Attorney-General and Judge Attorney under section 95;
- (o) the officer to annul proceedings of the Force Court under section 132; and
- (p) any other matter which is to be, or may be, prescribed, or in respect of which provision is to be, or may be, made by the rules.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

156. (1) The Sashastra Seema Bal in existence at the commencement of this Act shall be deemed to be the Force constituted under this Act.

(2) The members of the Sashastra Seema Bal in existence at the commencement of this Act shall be deemed to have been appointed or, as the case may be, enrolled as such under this Act.

Provisions as to existing Sashastra Seema Bal.

(3) Anything done or any action taken before the commencement of this Act in relation to the constitution of the Saschastra Seema Bal referred to in sub-section (1), in relation to any person appointed or enrolled, as the case may be, thereto, shall be as valid and as effective in law as if such thing or action was done or taken under this Act:

Provided that nothing in this sub-section shall render any person guilty of any offence in respect of anything done or omitted to be done by him before the commencement of this Act.

Sd/-

**DR. K. N. CHATURVEDI,**  
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

**H. D. VYAS**  
Secretary to Government.



सत्यमेव जयते

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Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

## PART VI

Acts of Parliament and Ordinances Promulgated by the President.

### LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 31<sup>st</sup> March, 2008.

No. RPB/13-2008/Act-54--07/E:-The following Act of Parliament is republished for General information:-

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

Legislative Department

New Delhi, the 20<sup>th</sup> December, 2007, Agrahayana 29, 1929 (Sake)

The following Act of Parliament has received the assent of the President on the 20<sup>th</sup> December, 2007, is hereby published for general information:-

### THE RAJIV GANDHI INSTITUTE OF PETROLEUM TECHNOLOGY ACT, 2007

AN ACT

(Act No. 54 of 2007)

[20<sup>th</sup> December, 2007]

*to declare the institution known as the Rajiv Gandhi Institute of Petroleum Technology to be an institution of national importance and to provide for its incorporation and for matters connected therewith.*

Be it enacted by Parliament in the Fifty-eighth Year of the Republic of India as follows:—

#### CHAPTER I

#### PRELIMINARY

1. (1) This Act may be called the Rajiv Gandhi Institute of Petroleum Technology Act, 2007. Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different provisions of this Act.

Declaration of  
Rajiv Gandhi  
Institute of  
Petroleum  
Technology as  
an institution  
of national  
importance.

2. Whereas the objects of the institution known as the Rajiv Gandhi Institute of Petroleum Technology, Jais, District— Rae Bareli, Uttar Pradesh are such as to make the institution one of national importance, it is hereby declared that the institution known as the Rajiv Gandhi Institute of Petroleum Technology is an institution of national importance.

Definitions.

3. In this Act, unless the context otherwise requires,—

(a) “appointed day” means the date appointed under sub-section (2) of section 1 for coming into force of this Act;

(b) “Board” means the Board of Governors of the Institute constituted under sub-section (1) of section 5;

(c) “Chairperson” means the Chairperson of the General Council;

(d) “Director” means the Director of the Institute appointed under section 20;

(e) “fund” means the fund of the Institute to be maintained under section 24;

(f) “General Council” means the General Council established under sub-section (1) of section 15;

(g) “Institute” means the Rajiv Gandhi Institute of Petroleum Technology incorporated under section 4;

(h) “President” means the President of the Board appointed under clause (a) of sub-section (1) of section 5;

(i) “Registrar” means the Registrar of the Institute referred to in section 21;

(j) “Senate” means the Senate of the Institute referred to in section 17;

(k) “Society” means the Rajiv Gandhi Institute of Petroleum Technology Society, Jais, District— Rae Bareli, Uttar Pradesh registered under the Societies Registration Act, 1860; and

21 of 1860.

(l) “Statutes” and “Ordinances” mean, respectively, the Statutes and Ordinances of the Institute made under this Act.

## CHAPTER II

### THE INSTITUTE

Incorporation  
of Institute.

4. The Rajiv Gandhi Institute of Petroleum Technology shall be a body corporate having perpetual succession and a common seal with power, subject to the provisions of this Act, to acquire, hold and dispose of property and to contract, and shall, by that name, sue and be sued.

Constitution of  
Board of  
Governors.

5. (1) With effect from such date as the Central Government may, by notification in the Official Gazette, appoint, there shall be constituted by the Central Government for the purposes of this Act, a Board to be known as the Board of Governors consisting of the following members, namely:—

(a) the President to be appointed by the Central Government in such manner as may be provided by the Statutes:

Provided that the first President shall be appointed by the Central Government on such terms and conditions as it deems fit, for a period not exceeding six months from the date the first Statutes comes into force.



(b) the Director of the Institute, *ex officio*;

(c) two persons from the Board of Directors of the promoting companies to be nominated by the Central Government.

*Explanation.*— For the purposes of this clause, promoting companies mean those companies contributing to the endowment fund referred to in section 25;

(d) one Professor of the Indian Institute of Technology, Kanpur to be nominated by the Director of that Institute;

(e) five eminent experts in the field of petroleum technology covering the entire hydrocarbon value chain having specialised knowledge or operational experience in respect of education, research, engineering and technology to be nominated by the General Council, in consultation with the Director of the Institute;

(f) two Professors of the Institute to be nominated by the Senate of the Institute; and

(g) one representative of the graduates of the Institute to be nominated by the Executive Committee of the Alumni Association.

(2) The Registrar of the Institute shall act as the Secretary of the Board.

(3) The Board shall ordinarily meet four times during a calendar year.

6. (1) Save as otherwise provided in this section, the term of office of the President or any other member of the Board, other than *ex officio* members shall be three years from the date of his appointment or nomination thereto.

Term of office of, vacancies among, and allowances payable to, members of Board.

(2) An *ex officio* member shall cease to be a member of the Board as soon as he vacates the office by virtue of which he is a member of the Board.

(3) The term of a member nominated to fill a casual vacancy shall continue for the remainder of the term of the member in whose place he has been nominated.

(4) Notwithstanding anything contained in this section, an outgoing member shall, unless the Central Government otherwise directs, continue in office until another person is nominated as a member in his place.

(5) The members of the Board shall be entitled to such allowances, if any, from the Institute, as may be provided for in the Statutes, but no member other than the member referred to in clause (f) of section 5 shall be entitled to any salary.

7. On and from the appointed day and subject to the other provisions of this Act, all properties which had vested in the Society immediately before that day, shall, on and from that day, vest in the Institute.

Vesting of properties.

8. On and from the appointed day,—

(a) any reference to the Society in any contract or other instrument shall be deemed as a reference to the Institute;

Effect of incorporation of Institute.

(b) all the rights and liabilities of the Society shall be transferred to, and be the rights and liabilities of, the Institute; and

(c) every person employed by the Society immediately before the appointed day shall hold office or service in the Institute by the same tenure, at the same remuneration and upon the same terms and conditions and with the same rights and privileges as to pension, leave, gratuity, provident fund and other matters as he would have held the same if this Act had not been passed, and shall continue to be so unless and until his employment is terminated or until such tenure, remuneration and terms and conditions are duly altered by the Statutes.

Provided that if the alteration so made is not acceptable to such employee, his employment may be terminated by the Institute in accordance with the terms of the contract with the employee or, if no provision is made therein in this behalf, on payment to him by the Institute of compensation equivalent to three months' remuneration in the case of permanent employees and one month's remuneration in the case of other employees.

Functions of  
Institute.

9. The Institute shall perform the following functions, namely:—

(i) nurture and promote quality and excellence in education and research in the area of petroleum and hydrocarbons;

(ii) provide for programmes and courses of instruction and research leading to the award of the Bachelors, Masters and Doctoral degrees in engineering and technology, management, sciences and arts in the area of petroleum and hydrocarbons;

(iii) grant, subject to such conditions as the Institute may determine, degrees, diplomas, certificates or other academic distinctions or titles at various academic levels to candidates who have attained the prescribed standard of proficiency as judged on the basis of examination or on any other basis of testing and evaluation and to withdraw any such degrees, diplomas, certificates or other academic distinctions or titles for good and sufficient reasons;

(iv) confer honorary degrees or other distinctions and to institute and award fellowships, scholarships, exhibitions, prizes and medals;

(v) lay down standards of admission to the Institute through an examination or any other method of testing and evaluation;

(vi) fix, demand and receive fees and other charges;

(vii) manage the content, quality, design and continuous evaluation of its academic and research programmes in a manner that earns accreditation of an international stature;

(viii) promote research and development for the benefit of oil, gas and petrochemical industry through the integration of teaching and research;

(ix) foster close educational and research interaction through networking with national, regional and international players in the oil, gas and petrochemical industry;

(x) co-operate with educational and research institutions in any part of the world having objects wholly or partly similar to those of the Institute by exchange of teachers and scholars, conduct of joint research, undertaking sponsored research and consultancy projects, etc;

(xi) organise national and international symposia, seminars and conferences in the area of petroleum and hydrocarbons;

(xii) establish, maintain and manage halls, residences and hostels for students;

(xiii) create academic, administrative, technical and other posts and to make appointments thereto;

(xiv) lay down conditions of service including a code of conduct for teachers and other categories of employees;

(xv) supervise, control and regulate the discipline of all categories of employees of the Institute and to make arrangements for promoting their health and general welfare;

(xvi) supervise and regulate the discipline of students and to make arrangements for promoting their health, general welfare and cultural and corporate life;

(xvii) frame Statutes and Ordinances and to alter, modify or rescind the same;

(xviii) deal with any property belonging to or vested in the Institute in such manner as the Institute may deem fit for advancing its objects;

(xix) receive gifts, grants, donations or benefactions from the Central and State Governments and to receive bequests, donations, grants and transfers of movable or immovable properties from testators, donors, transferors, alumni, industry or any other person;

(xx) borrow money for the purposes of the Institute with or without security of the property of the Institute;

(xxi) integrate new technology in the classroom to encourage student-centric learning strategies and the development of an attitude for learning;

(xxii) develop and maintain an information resource centre of print and non-print knowledge resources in the field of petroleum sector covering the entire hydrocarbon value chain as well as other related areas of science and technology;

(xxiii) provide for further education to the working professionals and other employees of the Institute in the advanced areas of technology relating to oil, gas and complete hydrocarbon value chain; and

(xxiv) do all things, not specifically covered above, as may be necessary, incidental or conducive to the attainment of all or any of the objects of the Institute.

10. (1) Subject to the provisions of this Act, the Board shall be responsible for the general superintendence, direction and control of the affairs of the Institute and shall exercise all the powers not otherwise provided for by this Act, the Statutes and the Ordinances, and shall have the power to review the acts of the Senate.

Powers of Board.

(2) Without prejudice to the provisions of sub-section (1), the Board shall—

(a) take decisions on questions of policy relating to the administration and working of the Institute;

(b) lay down policy regarding the duration of the courses, nomenclature of the degrees and other distinctions to be conferred by the Institute;

(c) institute courses of study and to lay down standards of proficiency and other academic distinctions in respect of the courses offered by the Institute;

(d) lay down policy regarding the cadre structure, qualification, the method of recruitment and conditions of service of the teaching and research faculty as well as other employees of the Institute;

(e) guide resource mobilisation of the Institute and to lay down policies for investment;

(f) consider and approve proposals for taking loans for purposes of the Institute with or without security of the property of the Institute;

(g) frame Statutes and to alter, modify or rescind the same;

(h) consider and pass resolutions on the annual report, the annual accounts and the budget estimates of the Institute for the next financial year as it thinks fit together with a statement of its development plans; and

(i) do all such things as may be necessary, incidental or conducive to the attainment of all or any of the aforesaid powers.

(3) The Board shall have the power to appoint such committees as it considers necessary for the exercise of its powers and the performance of its duties under this Act.

(4) The Board shall have the power to establish campus and academic centres at any place within or outside India:

Provided that no campus or academic centre shall be established outside India without prior approval of the Central Government.

(5) Notwithstanding anything contained in section 4, the Board shall not dispose of in any manner, any immovable property of the Institute without prior approval of the Central Government.

(6) The Board may, through a specific resolution to this effect, delegate any of its powers and duties to the President, Director, any officer or any authority of the Institute subject to reserving the right to review the action that may be taken under such delegated authority.

Institute to be open to all races, creeds and classes.

11. (1) The Institute shall be open to persons of either sex and of whatever race, creed, caste or class, and no test or condition shall be imposed as to religious belief or profession in admitting students, appointing teachers or employees or in any other connection whatsoever.

(2) No bequest, donation or transfer of any property shall be accepted by the Institute which in the opinion of the Board involves conditions or obligations opposed to the spirit and object of this section.

Teaching at the Institute.

12. All teaching and other academic activities at the Institute shall be conducted by or in the name of the Institute in accordance with the Statutes and the Ordinances made in this behalf.

Visitor.

13. (1) The President of India shall be the Visitor of the Institute.

(2) The Visitor may appoint one or more persons to review the work and progress of the Institute and to hold inquiries into the affairs thereof and to report thereon in such manner as the Visitor may direct.

(3) Upon receipt of any such report, the Visitor may take such action and issue such directions as he considers necessary in respect of any of the matters dealt with in the report and the Institute shall be bound to comply with such directions.

Authorities of Institute.

14. The following shall be the authorities of the Institute, namely:—

(a) the General Council;

(b) the Board of Governors;

(c) the Senate; and

(d) such other authorities as may be declared by the Statutes to be the authorities of the Institute.

Establishment of General Council.

15. (1) With effect from such date as the Central Government may, by notification in the Official Gazette, appoint, there shall be established, for the purposes of this Act, a body to be known as the General Council.

(2) The General Council shall consist of the following members, namely:—

(a) the Secretary, Ministry of Petroleum and Natural Gas in the Central Government, *ex officio*, who shall be the Chairperson;

(b) the Chairman, Indian Oil Corporation Limited, *ex officio*;

(c) the Chairman and Managing Director, Hindustan Petroleum Corporation Limited, *ex officio*;

(d) the Chairman and Managing Director, Bharat Petroleum Corporation Limited, *ex officio*;

(e) the Chairman and Managing Director, Oil and Natural Gas Corporation, *ex officio*;



(f) the Chairman and Managing Director, Gas Authority of India Limited, *ex officio*;

(g) the Chairman and Managing Director, Oil India Limited, *ex officio*;

(h) the Director General of Hydrocarbons, *ex officio*;

(i) the Principal Advisor (Energy), Planning Commission, *ex officio*;

(j) the Executive Director, Oil Industry Safety Directorate, *ex officio*;

(k) the Director, Indian Institute of Technology, Kanpur, *ex officio*;

(l) the Director, University Institute of Chemical Technology, Mumbai University, *ex officio*;

(m) the Secretary, Oil Industry Development Board, *ex officio*;

(n) the President of the Board, *ex officio*;

(o) the Director of the Institute, *ex officio*; and

(p) persons, not less than two but not exceeding four, representing the private entities in the field of petroleum sector operating in the country, to be nominated by the Chairperson.

(3) The Registrar of the Institute shall be the *ex officio* Secretary of the General Council.

(4) The Chairperson shall have the power to invite any person who is not a member of the General Council to attend its meeting but such invitee shall not be entitled to vote.

16. Subject to the provisions of this Act, the General Council shall have the following powers and functions, namely:—

Powers and  
functions of  
General  
Council.

(a) review from time to time the broad policies and programmes of the Institute and to suggest measures for the improvement and development thereof;

(b) consider the annual statement of accounts including a balance-sheet together with the audit report thereto and the observations of the Board of Governors thereon and to suggest improvements in fiscal management of the Institute;

(c) review and evaluate overall quality and effectiveness of the Institute and to advise measures for improvement of performance and for confidence-building between the Institute and its stakeholders;

(d) provide credibility, aura, connectivity and contacts for the Institute especially with regard to student placement and resource mobilisation; and

(e) advise the Institute and its Board in respect of the advanced areas of technology in the field of petroleum sector covering the entire hydrocarbon value chain as well as in respect of any other matter that may be referred to it for advice by the Board.

17. The Senate of the Institute shall be the principal academic body and its composition shall be such as may be provided by the Statutes.

Senate.

18. Subject to the provisions of this Act, the Statutes and the Ordinances, the Senate shall have the control and general regulation, and be responsible for the maintenance of standards of instruction, education and examination in the Institute and shall exercise such other powers and perform such other duties as may be conferred or imposed upon it by the Statutes.

Functions of  
Senate.

19. (1) The President shall ordinarily preside at the meetings of the Board and at the Convocations of the Institute.

President of  
Board.

(2) It shall be the duty of the President to ensure that the decisions taken by the Board are implemented.

(3) The President shall exercise such other powers and perform such other duties as may be assigned to him by this Act or the Statutes.

Director.

20. (1) The Director of the Institute shall be appointed by the Central Government in such manner and on such terms and conditions as may be provided by the Statutes:

Provided that the first Director shall be appointed by the Central Government on such terms and conditions as it deems fit, for a period not exceeding six months from the date the first Statutes comes into force.

(2) The Director shall be the principal academic and executive officer of the Institute and shall be responsible for the proper administration and academic performance of the Institute and for imparting of instruction and maintenance of discipline therein.

(3) The Director shall submit annual reports and accounts to the Board.

(4) The Director shall exercise such other powers and perform such other duties as may be assigned to him by this Act, the Statutes or the Ordinances.

Registrar.

21. (1) The Registrar of the Institute shall be appointed in such manner and on such terms and conditions as may be provided by the Statutes and shall be the custodian of records, the common seal, the funds of the Institute and such other property of the Institute as the Board shall commit to his charge.

(2) The Registrar shall act as the Secretary of the General Council, the Board, the Senate and such committees as may be provided by the Statutes.

(3) The Registrar shall be responsible to the Director for the proper discharge of his functions.

(4) The Registrar shall exercise such other powers and perform such other duties as may be assigned to him by this Act, the Statutes or by the Director.

Powers and duties of other authorities and officers.

22. The powers and duties of authorities and officers, other than those hereinbefore mentioned, shall be determined by the Statutes.

Grants by Central Government.

23. For the purpose of enabling the Institute to discharge its functions efficiently under this Act, the Central Government may, after due appropriation made by Parliament by law in this behalf, pay to the Institute in each financial year such sums of money and in such manner as it may think fit.

Fund of Institute.

24. (1) The Institute shall maintain a fund to which shall be credited—

(a) all moneys provided by the Central Government;

(b) all fees and other charges;

(c) all moneys received by the Institute by way of grants, gifts, donations, benefactions, bequests or transfers; and

(d) all moneys received by the Institute in any other manner or from any other source.

(2) All moneys credited to the fund shall be deposited in such banks or invested in such manner as may be decided by the Board.

(3) The fund shall be applied towards meeting the expenses of the Institute including expenses incurred in the exercise of its powers and discharge of its duties under this Act.

25. Notwithstanding anything contained in section 24, the Institute may,—

Setting up of  
endowment  
fund.

(a) set up an endowment fund and any other fund for a specified purpose; and

(b) transfer money from its fund to the endowment fund or any other fund.

26. (1) The Institute shall maintain proper accounts and other relevant records and prepare an annual statement of accounts, including the balance-sheet, in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.

Accounts and  
audit.

(2) The accounts of the Institute shall be audited by the Comptroller and Auditor-General of India and any expenditure incurred by him in connection with such audit shall be payable by the Institute to the Comptroller and Auditor-General of India.

(3) The Comptroller and Auditor-General of India and any person appointed by him in connection with the audit of the accounts of the Institute shall have the same rights, privileges and authority in connection with such audit as the Comptroller and Auditor-General of India has in connection with the audit of the Government accounts, and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect the offices of the Institute.

(4) The accounts of the Institute as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf together with the audit report thereon shall be forwarded annually to the Central Government and that Government shall cause the same to be laid before each House of Parliament.

27. (1) The Institute shall constitute for the benefit of its employees, including the Director, such pension, insurance and provident fund scheme as it deems fit, in such manner and subject to such conditions as may be provided by the Statutes.

Pension and  
provident  
fund.

19 of 1925.

(2) Where any such provident fund has been so constituted, the Central Government may declare that the provisions of the Provident Funds Act, 1925 shall apply to such fund as if it were a Government provident fund.

28. All appointments of the staff of the Institute, except that of the Director, shall be made in accordance with the procedure laid down in the Statutes,—

Appointments.

(a) by the Board, if the appointment is made on the academic staff in the post of Assistant Professor or above or if the appointment is made on the non-academic staff in any cadre, the maximum of the pay-scale for which is the same or higher than that of Assistant Professor; and

(b) by the Director, in any other case.

29. Subject to the provisions of this Act, the Statutes may provide for all or any of the following matters, namely:—

Statutes.

(a) the formation of departments of teaching and other academic units;

(b) the institution of fellowships, scholarships, exhibitions, medals and prizes;

(c) the classification of posts, term of office, method of appointment, powers and duties and other terms and conditions of service of the officers of the Institute including the President, the Director, the Registrar, and such other officers as may be declared as officers of the Institute by the Statutes;

(d) the classification, the method of appointment and the determination of the terms and conditions of service of officers, teachers and other staff of the Institute;

(e) the reservation of posts for the Scheduled Castes, the Scheduled Tribes and other categories of persons as may be determined by the Central Government;

(f) the constitution of pension, insurance and provident funds for the benefit of the officers, teachers and other staff of the Institute;

(g) the constitution, powers and duties of the other authorities of the Institute referred in clause (d) of section 14;

(h) the delegation of power;

(i) the code of conduct, disciplinary actions thereto for misconduct including removal from service of employees on account of misconduct and the procedure for appeal against the actions of an officer or authority of the Institute;

(j) the conferment of honorary degrees;

(k) the establishment and maintenance of halls, residences and hostels;

(l) the authentication of the orders and decisions of the Board; and

(m) any other matter which by this Act is to be, or may be, provided by the Statutes.

Statutes how made.

30. (1) The first Statutes of the Institute shall be framed by the Central Government and a copy of the same shall be laid, as soon as may be after it is made, before each House of Parliament.

(2) The Board may, from time to time, make new or additional Statutes or may amend or repeal the Statutes in the manner hereafter in this section provided.

(3) A new Statute or addition to the Statutes or any amendment or repeal of a Statute shall require the previous approval of the General Council who may assent thereto or withhold assent or remit it to the Board for consideration.

(4) A new Statute or a Statute amending or repealing an existing Statute shall have no validity unless it has been assented to by the General Council.

Ordinances.

31. Subject to the provisions of this Act and the Statutes, the Ordinances may provide for all or any of the following matters, namely:—

(a) the admission of the students to the Institute;

(b) the reservation for the Scheduled Castes, the Scheduled Tribes and other categories of persons;

(c) the courses of study to be laid down for all degrees, diplomas and certificates of the Institute;

(d) the conditions under which students shall be admitted to the degree, diploma and certificate courses and to the examinations of the Institute and the eligibility conditions for awarding the same;

(e) the conditions of award of the fellowships, scholarships, exhibitions, medals and prizes;

(f) the conditions and manner of appointment and duties of examining bodies, examiners and moderators;

(g) the conduct of examinations;

(h) the maintenance of discipline among the students of the Institute;

(i) the fees to be charged for courses of study at the Institute and for admission to the examinations;



(j) the conditions of residence of students of the Institute and the levying of the fees for residence in the halls and hostels and of other charges; and

(k) any other matter which by this Act or the Statutes is to be, or may be, provided for by the Ordinances.

32. (1) Save as otherwise provided in this section, Ordinances shall be made by the Senate. Ordinances how made.

(2) All Ordinances made by the Senate shall have effect from such date as it may direct, but every Ordinance so made shall be submitted, as soon as may be, to the Board and shall be considered by the Board at its next succeeding meeting.

(3) The Board shall have power by resolution to modify or cancel any such Ordinance and such Ordinance shall from the date of such resolution stand modified accordingly or cancelled, as the case may be.

33. The authorities of the Institute may have their own rules of procedure, consistent with the provisions of this Act, the Statutes and the Ordinances for the conduct of their own business and that of the committees, if any, appointed by them and not provided for by this Act, the Statutes or the Ordinances. Conduct of business by authorities of Institute.

34. (1) Any dispute arising out of a contract between the Institute and any of its employees shall, at the request of the employee concerned or at the instance of the Institute, be referred to a Tribunal of Arbitration consisting of one member appointed by the Institute, one member nominated by the employee, and an umpire appointed by the Visitor. Tribunal of Arbitration.

(2) The decision of the Tribunal of Arbitration shall be final.

(3) No suit or proceeding shall lie in any court in respect of any matter which is required by sub-section (1) to be referred to the Tribunal of Arbitration.

(4) The Tribunal of Arbitration shall have power to regulate its own procedure.

(5) Nothing in any law for the time being in force relating to arbitration shall apply to arbitrations under this section.

### CHAPTER III

#### MISCELLANEOUS

35. No act of the Institute or the General Council or Board or Senate or any other body set up under this Act or the Statutes, shall be invalid merely by reasons of— Acts and proceedings not to be invalidated by vacancies.

(a) any vacancy in, or defect in the constitution thereof, or

(b) any defect in the election, nomination or appointment of a person acting as a member thereof, or

(c) any irregularity in its procedure not affecting the merits of the case.

3 of 1956.

36. Notwithstanding anything contained in the University Grants Commission Act, 1956 or in any other law for the time being in force, the Institute shall have power to grant degrees and other academic distinctions and titles under this Act. Grant of degrees, etc., by Institute.

37. Notwithstanding anything in this Act, whenever the Institute receives funds from any Government, the University Grants Commission or any other agency including industry sponsoring a research scheme, a consultancy assignment, a teaching programme or a chaired professorship or a scholarship, to be executed or endowed at the Institute,— Sponsored schemes.

(a) the amount received shall be kept by the Institute separately from the fund of the Institute and utilised only for the purpose of the scheme; and

(b) the staff required to execute the same shall be recruited in accordance with the terms and conditions stipulated by the sponsoring organisation:

Provided that any money remaining unutilised under clause (a) shall be transferred to the endowment fund created under section 25.



Power to  
remove  
difficulties.

38. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions or give such directions not inconsistent with the provisions of this Act, as appears to it to be necessary or expedient for removing the difficulty:

Provided that no such order shall be made after the expiry of two years from the appointed day.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

Transitional  
provisions.

39. Notwithstanding anything contained in this Act,—

(a) the Board of Governors of the Society functioning as such immediately before the commencement of this Act shall continue to so function until a new Board is constituted for the Institute under this Act, but on the constitution of a new Board under this Act, the members of the Board holding office before such constitution shall cease to hold office; and

(b) until the first Statutes and the Ordinances are made under this Act, the Statutes and the Ordinances of the Rajiv Gandhi Institute of Petroleum Technology Society, or notification as in force, immediately before the commencement of this Act, shall continue to apply to the Institute in so far as they are not inconsistent with the provisions of this Act.

Statutes,  
Ordinances  
and  
notifications  
to be  
published in  
the Official  
Gazette and  
to be laid  
before  
Parliament.

40. (1) Every Statute and every Ordinance made or notification issued under this Act shall be published in the Official Gazette.

(2) Every Statute and every Ordinance made or notification issued under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the Statute, Ordinance or notification or both Houses agree that the Statute, Ordinance or notification should not be made or issued, the Statute, Ordinance or notification shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that Statute, Ordinance or notification.

(3) The power to make the Statutes, Ordinances or notifications shall include the power to give retrospective effect from a date not earlier than the date of commencement of this Act, to the Statutes, Ordinances, notifications or any of them but no retrospective effect shall be given to any Statute, Ordinance or notification so as to prejudicially affect the interests of any person to whom such Statute, Ordinance or notification may be applicable.

Sd/-

**DR. K. N. CHATURVEDI,**  
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

**H. D. VYAS**  
Secretary to Government.



सत्यमेव जयते

# The Gujarat Government Gazette

EXTRAORDINARY  
PUBLISHED BY AUTHORITY

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MONDAY, MARCH 31, 2008/CAITRA 11, 1930

Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

## PART VI

Acts of Parliament and Ordinances Promulgated by the President.

### LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 31<sup>st</sup> March, 2008.

No. RPB/14-2008/Act-55--07/E:-The following Act of Parliament is republished for General information:-

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

Legislative Department

New Delhi, the 28<sup>th</sup> December, 2007, Pausa 7, 1929 (Sake)

The following Act of Parliament has received the assent of the President on the 25<sup>th</sup> December, 2007, is hereby published for general information:-

### THE ARMED FORCES TRIBUNAL ACT, 2007

AN ACT

(Act No. 55 of 2007)

[25<sup>th</sup> DECEMBER, 2007]

*to provide for the adjudication or trial by Armed Forces Tribunal of disputes and complaints with respect to commission, appointments, enrolment and conditions of service in respect of persons subject to the Army Act, 1950, the Navy Act, 1957 and the Air Force Act, 1950 and also to provide for appeals arising out of orders, findings or sentences of court martial held under the said Acts and for matters connected therewith or incidental thereto.*

Be it enacted by Parliament in the Fifty-eighth Year of the Republic of India as follows:—

#### CHAPTER I

#### PRELIMINARY

1. (1) This Act may be called the Armed Forces Tribunal Act, 2007.

(2) It shall come into force on such date as the Central Government may, by notification, appoint.

Short title and  
commencement.



Applicability  
of the Act.

2. (1) The provisions of this Act shall apply to all persons subject to the Army Act, 1950, the Navy Act, 1957 and the Air Force Act, 1950.

46 of 1950.  
62 of 1957.  
45 of 1950.

(2) This Act shall also apply to retired personnel subject to the Army Act, 1950 or the Navy Act, 1957 or the Air Force Act, 1950, including their dependants, heirs and successors, in so far as it relates to their service matters.

46 of 1950.  
62 of 1957.  
45 of 1950.

Definitions.

3. In this Act, unless the context otherwise requires,—

(a) "Administrative Member" means a member of the Tribunal who is not a Judicial Member within the meaning of clause (g);

(b) "application" means an application made under sub-section (2) of section 14;

(c) "appointed day" means the date with effect from which the Tribunal is established by notification under section 4;

(d) "Bench" means a Bench of the Tribunal;

(e) "Chairperson" means the Chairperson of the Tribunal;

(f) "court martial" means a court martial held under the Army Act, 1950 or the Navy Act, 1957 including the disciplinary courts constituted under the Act or the Air Force Act, 1950;

46 of 1950.  
62 of 1957.  
45 of 1950.

(g) "Judicial Member" means a member of the Tribunal appointed as such under this Act, and includes the Chairperson, who possesses any of the qualifications specified in sub-section (2) of section 6;

(h) "Member" means a member (whether Judicial or Administrative) of the Tribunal and includes the Chairperson;

(i) "military custody" means the arrest or confinement of a person according to the usages of the service and includes naval or air force custody;

(j) "notification" means a notification published in the Official Gazette;

(k) "prescribed" means prescribed by rules made under this Act;

(l) "President" means the President of India;

(m) "rules" means the rules made under this Act;

(n) "service" means the service within or outside India;

(o) "service matters", in relation to the persons subject to the Army Act, 1950, the Navy Act, 1957 and the Air Force Act, 1950, mean all matters relating to the conditions of their service and shall include—

46 of 1950.  
62 of 1957.  
45 of 1950.

(i) remuneration (including allowances), pension and other retirement benefits;

(ii) tenure, including commission, appointment, enrolment, probation, confirmation, seniority, training, promotion, reversion, premature retirement, superannuation, termination of service and penal deductions;

(iii) summary disposal and trials where the punishment of dismissal is awarded;



(iv) any other matter, whatsoever,  
but shall not include matters relating to—

(i) orders issued under section 18 of the Army Act, 1950, sub-section (1) of section 15 of the Navy Act, 1957 and section 18 of the Air Force Act, 1950; and

(ii) transfers and postings including the change of place or unit on posting whether individually or as a part of unit, formation or ship in relation to the persons subject to the Army Act, 1950, the Navy Act, 1957 and the Air Force Act, 1950;

(iii) leave of any kind;

(iv) summary court martial except where the punishment is of dismissal or imprisonment for more than three months;

(p) "summary disposals and trials" means summary disposals and trials held under the Army Act, 1950, the Navy Act, 1957 and the Air Force Act, 1950;

(q) "Tribunal" means the Armed Forces Tribunal established under section 4.

## CHAPTER II

### ESTABLISHMENT OF TRIBUNAL AND BENCHES THEREOF

4. The Central Government shall, by notification, establish a Tribunal to be known as the Armed Forces Tribunal to exercise the jurisdiction, powers and authority conferred on it by or under this Act.

5. (1) The Tribunal shall consist of a Chairperson, and such number of Judicial and Administrative Members as the Central Government may deem fit and, subject to the other provisions of this Act, the jurisdiction, powers and authority of the Tribunal may be exercised by Benches thereof.

(2) Subject to the other provisions of this Act, a Bench shall consist of one Judicial Member and one Administrative Member.

(3) Notwithstanding anything contained in sub-section (1), the Chairperson—

(a) may, in addition to discharging the functions of a Judicial Member of the Bench to which he is appointed, discharge the functions of an Administrative Member of any other Bench;

(b) may transfer a Member from one Bench to another Bench;

(c) may, for the purpose of securing that any case or cases, which having regard to the nature of the questions involved, requires or require, in his opinion, or under the rules made under this Act, to be decided by a Bench composed of more than two members, issue such general or special orders, as he may deem fit:

Provided that every Bench constituted in pursuance of this clause shall include at least one Judicial Member and one Administrative Member.

(4) Subject to the other provisions of this Act, the Benches of the Tribunal shall ordinarily sit at Delhi (which shall be known as the Principal Bench), and at such other places as the Central Government may, by notification, specify.

6. (1) A person shall not be qualified for appointment as the Chairperson unless he is a retired Judge of the Supreme Court or a retired Chief Justice of a High Court.

(2) A person shall not be qualified for appointment as a Judicial Member unless he is or has been a Judge of a High Court.

Establishment  
of Armed  
Forces Tribu-  
nal.

Composition  
of Tribunal  
and Benches  
thereof.

Qualifications  
for appoint-  
ment of  
Chairperson  
and other  
Members.

46 of 1950.  
62 of 1957.  
45 of 1950.

46 of 1950.  
62 of 1957.  
45 of 1950.

46 of 1950.  
62 of 1957.  
45 of 1950.

(3) A person shall not be qualified for appointment as an Administrative Member unless—

(a) he has held or has been holding the rank of Major General or above for a total period of at least three years in the Army or equivalent rank in the Navy or the Air Force; and

(b) he has served for not less than one year as Judge Advocate General in the Army or the Navy or the Air Force, and is not below the rank of Major General, Commodore and Air Commodore respectively.

*Explanation.*—When a serving person is appointed as an Administrative Member, he shall have retired from service prior to assuming such appointment.

Appointment  
of  
Chairperson  
and other  
Members.

7. (1) Subject to the provisions of this section, the Chairperson and other Members of the Tribunal shall be appointed by the President:

Provided that no appointment under this sub-section shall be made except after consultation with the Chief Justice of India.

(2) The President may appoint one or more Members of the Tribunal to be the Vice-Chairperson, or, as the case may be, the Vice-Chairpersons, thereof.

Term of office.

8. The Chairperson or a Member shall hold office for a term of four years from the date on which he enters upon his office and shall be eligible for re-appointment:

Provided that no Chairperson shall hold office as such after he has attained,—

(a) in case he has been a Judge of the Supreme Court, the age of seventy years; and

(b) in case he has been the Chief Justice of a High Court, the age of sixty-five years:

Provided further that no other Member shall hold office as such Member after he has attained the age of sixty-five years.

Resignation  
and removal.

9. (1) The Chairperson or a Member may, by notice in writing under his hand addressed to the President, resign his office:

Provided that the Chairperson or a Member shall, unless he is permitted by the President to relinquish his office sooner, continue to hold office until the expiry of three months from the date of receipt of such notice or until a person duly appointed as his successor enters upon his office or until the expiry of his term of office, whichever is the earliest.

(2) The Chairperson or a Member shall not be removed from his office except by an order made by the President on the ground of proved misbehaviour or incapacity after an inquiry made by a sitting Judge of the Supreme Court in which such Chairperson or other Member had been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges.

(3) The Central Government may, by rules, regulate the procedure for the investigation of misbehaviour or incapacity of the Chairperson or other Member referred to in sub-section (2).

10. The salaries and allowances payable to, and the other terms and conditions of service (including pension, gratuity and other retirement benefits) of, the Chairperson and other Members shall be such as may be prescribed by the Central Government:

Salaries, allowances and other terms and conditions of service of Chairperson and other Members.

Provided that neither the salary and allowances nor the other terms and conditions of service of the Chairperson and other Members shall be varied to their disadvantage after their appointment.

11. On ceasing to hold office—

(a) the Chairperson shall be ineligible for further employment either under the Government of India or under the Government of a State;

Prohibitions as to holding of offices, etc., by Chairperson or Member on ceasing to be such Chairperson or Member.

(b) a Member other than the Chairperson shall, subject to the provisions of this Act, be eligible for appointment as a member of any other Tribunal but not for any other employment either under the Government of India or under the Government of a State; and

(c) the Chairperson or other Members shall not appear, act or plead before the Tribunal.

12. The Chairperson shall exercise such financial and administrative powers over the Benches as may be prescribed:

Financial and administrative powers of Chairperson.

Provided that the Chairperson shall have the authority to delegate such of his financial and administrative powers as he may think fit to any other Member or any officer of the Tribunal, subject to the conditions that such Member or officer shall, while exercising such delegated powers, continue to act under the direction, control and supervision of the Chairperson.

13. (1) The Central Government shall determine the nature and categories of the officers and other employees required to assist the Tribunal in the discharge of its functions and provide the Tribunal with such officers and other employees as it may think fit.

Staff of the Tribunal.

(2) The salaries and allowances payable to, and the other terms and conditions of service of the officers and other employees of the Tribunal shall be such as may be prescribed.

(3) The officers and other employees of the Tribunal shall discharge their functions under the general superintendence of the Chairperson.

### CHAPTER III

#### JURISDICTION, POWERS AND AUTHORITY OF THE TRIBUNAL

14. (1) Save as otherwise expressly provided in this Act, the Tribunal shall exercise, on and from the appointed day, all the jurisdiction, powers and authority, exercisable immediately before that day by all courts (except the Supreme Court or a High Court exercising jurisdiction under articles 226 and 227 of the Constitution) in relation to all service matters.

Jurisdiction, powers and authority in service matters.

(2) Subject to the other provisions of this Act, a person aggrieved by an order pertaining to any service matter may make an application to the Tribunal in such form and accompanied by such documents or other evidence and on payment of such fee as may be prescribed.

(3) On receipt of an application relating to service matters, the Tribunal shall, if satisfied after due inquiry, as it may deem necessary, that it is fit for adjudication by it, admit such application; but where the Tribunal is not so satisfied, it may dismiss the application after recording its reasons in writing.



(4) For the purpose of adjudicating an application, the Tribunal shall have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908, while trying a suit in respect of the following matters, namely—

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of documents;

(c) receiving evidence on affidavits;

(d) subject to the provisions of sections 123 and 124 of the Indian Evidence Act, 1872, requisitioning any public record or document or copy of such record or document from any office;

(e) issuing commissions for the examination of witnesses or documents;

(f) reviewing its decisions;

(g) dismissing an application for default or deciding it *ex parte*;

(h) setting aside any order of dismissal of any application for default or any order passed by it *ex parte*; and

(i) any other matter which may be prescribed by the Central Government.

(5) The Tribunal shall decide both questions of law and facts that may be raised before it.

Jurisdiction,  
powers and  
authority in  
matters of  
appeal against  
court martial

15. (1) Save as otherwise expressly provided in this Act, the Tribunal shall exercise, on and from the appointed day, all the jurisdiction, powers and authority exercisable under this Act in relation to appeal against any order, decision, finding or sentence passed by a court martial or any matter connected therewith or incidental thereto.

(2) Any person aggrieved by an order, decision, finding or sentence passed by a court martial may prefer an appeal in such form, manner and within such time as may be prescribed.

(3) The Tribunal shall have power to grant bail to any person accused of an offence and in military custody, with or without any conditions which it considers necessary:

Provided that no accused person shall be so released if there appears reasonable ground for believing that he has been guilty of an offence punishable with death or imprisonment for life.

(4) The Tribunal shall allow an appeal against conviction by a court martial where—

(a) the finding of the court martial is legally not sustainable due to any reason whatsoever; or

(b) the finding involves wrong decision on a question of law; or

(c) there was a material irregularity in the course of the trial resulting in miscarriage of justice,

but, in any other case, may dismiss the appeal where the Tribunal considers that no miscarriage of justice is likely to be caused or has actually resulted to the appellant.



Provided that no order dismissing the appeal by the Tribunal shall be passed unless such order is made after recording reasons therefor in writing.

(5) The Tribunal may allow an appeal against conviction, and pass appropriate order thereon.

(6) Notwithstanding anything contained in the foregoing provisions of this section, the Tribunal shall have the power to—

(a) substitute for the findings of the court martial, a finding of guilty for any other offence for which the offender could have been lawfully found guilty by the court martial and pass a sentence afresh for the offence specified or involved in such findings under the provisions of the Army Act, 1950 or the Navy Act, 1957 or the Air Force Act, 1950, as the case may be; or

46 of 1950.  
62 of 1957.  
45 of 1950.

(b) if sentence is found to be excessive, illegal or unjust, the Tribunal may—

(i) remit the whole or any part of the sentence, with or without conditions;

(ii) mitigate the punishment awarded;

(iii) commute such punishment to any lesser punishment or punishments mentioned in the Army Act, 1950, the Navy Act, 1957 and the Air Force Act, 1950, as the case may be;

46 of 1950.  
62 of 1957.  
45 of 1950.

(c) enhance the sentence awarded by a court martial:

Provided that no such sentence shall be enhanced unless the appellant has been given an opportunity of being heard;

(d) release the appellant, if sentenced to imprisonment, on parole with or without conditions;

(e) suspend a sentence of imprisonment;

(f) pass any other order as it may think appropriate.

(7) Notwithstanding any other provisions in this Act, for the purposes of this section, the Tribunal shall be deemed to be a criminal court for the purposes of sections 175, 178, 179, 180, 193, 195, 196 or 228 of the Indian Penal Code and Chapter XXVI of the Code of Criminal Procedure, 1973.

45 of 1860.  
2 of 1974.

16. (1) Except as provided by this Act, where the conviction of a person by court martial for an offence has been quashed, he shall not be liable to be tried again for that offence by a court martial or by any other Court. Re-trial.

(2) The Tribunal shall have the power of quashing a conviction, to make an order authorising the appellant to be retried by court martial, but shall only exercise this power when the appeal against conviction is allowed by reasons only of evidence received or available to be received by the Tribunal under this Act and it appears to the Tribunal that the interests of justice require that an order under this section should be made:

Provided that an appellant shall not be retried under this section for an offence other than—

(a) the offence for which he was convicted by the original court martial and in respect of which his appeal is allowed;

(b) any offence for which he could have been convicted at the original court martial on a charge of the first-mentioned offence;

(c) any offence charged in the alternative in respect of which the court martial recorded no finding in consequence of convicting him of the first-mentioned offence.

(3) A person who is to be retried under this section for an offence shall, if the Tribunal or the Supreme Court so directs, whether or not such person is being tried or retried on one or more of the original charges, no fresh investigation or other action shall be taken under the relevant provision of the Army Act, 1950 or the Navy Act, 1957 or the Air Force Act, 1950, as the case may be, or rules and regulations made thereunder, in relation to the said charge or charges on which he is to be retried.

46 of 1950.  
62 of 1957.  
45 of 1950.

Powers of the  
Tribunal on  
appeal under  
section 15.

17. The Tribunal, while hearing and deciding an appeal under section 15, shall have the power—

(a) to order production of documents or exhibits connected with the proceedings before the court martial;

(b) to order the attendance of the witnesses;

(c) to receive evidence;

(d) to obtain reports from court martial;

(e) order reference of any question for enquiry;

(f) appoint a person with special expert knowledge to act as an assessor; and

(g) to determine any question which is necessary to be determined in order to do justice in the case.

Cost.

18. While disposing of the application under section 14 or an appeal under section 15, the Tribunal shall have power to make such order as to costs as it may deem just.

Power to  
punish for  
contempt.

19. (1) Any person who is guilty of contempt of the Tribunal by using any insulting or threatening language, or by causing any interruption or disturbance in the proceedings of such Tribunal shall, on conviction, be liable to suffer imprisonment for a term which may extend to three years.

(2) For the purposes of trying an offence under this section, the provisions of sections 14, 15, 17, 18 and 20 of the Contempt of Courts Act, 1971 shall *mutatis mutandis* apply, as if a reference therein to—

70 of 1971.

(a) Supreme Court or High Court were a reference to the Tribunal;

(b) Chief Justice were a reference to the Chairperson;

(c) Judge were a reference to the Judicial or Administrative Member of the Tribunal;

(d) Advocate-General were a reference to the prosecutor; and

(e) Court were a reference to the Tribunal.

Distribution  
of business  
among the  
Benches.

20. The Chairperson may make provisions as to the distribution of the business of the Tribunal among its Benches.

## CHAPTER IV

## PROCEDURE

46 of 1950.  
62 of 1957.  
45 of 1950.

21. (1) The Tribunal shall not ordinarily admit an application unless it is satisfied that the applicant had availed of the remedies available to him under the Army Act, 1950 or the Navy Act, 1957 or the Air Force Act, 1950, as the case may be, and respective rules and regulations made thereunder.

Application  
not to be  
admitted  
unless other  
remedies  
exhausted.

46 of 1950.  
62 of 1957.  
45 of 1950.

(2) For the purposes of sub-section (1), a person shall be deemed to have availed of all the remedies available to him under the Army Act, 1950 or the Navy Act, 1957 or the Air Force Act, 1950, and respective rules and regulations—

(a) if a final order has been made by the Central Government or other authority or officer or other person competent to pass such order under the said Acts, rules and regulations, rejecting any petition preferred or representation made by such person;

(b) where no final order has been made by the Central Government or other authority or officer or other person competent to pass such order with regard to the petition preferred or representation made by such person, if a period of six months from the date on which such petition was preferred or representation was made has expired.

22. The Tribunal shall not admit an application—

Limitation.

(a) in a case where a final order such as is mentioned in clause (a) of sub-section (2) of section 21 has been made unless the application is made within six months from the date on which such final order has been made;

(b) in a case where a petition or a representation such as is mentioned in clause (b) of sub-section (2) of section 21 has been made and the period of six months has expired thereafter without such final order having been made;

(c) in a case where the grievance in respect of which an application is made had arisen by reason of any order made at any time during the period of three years immediately preceding the date on which jurisdiction, powers and authority of the Tribunal became exercisable under this Act, in respect of the matter to which such order relates and no proceedings for the redressal of such grievance had been commenced before the said date before the High Court.

(2) Notwithstanding anything contained in sub-section (1), the Tribunal may admit an application after the period of six months referred to in clause (a) or clause (b) of sub-section (1), as the case may be, or prior to the period of three years specified in clause (c), if the Tribunal is satisfied that the applicant had sufficient cause for not making the application within such period.

5 of 1908.

23. (1) The Tribunal shall not be bound by the procedure laid down in the Code of Civil Procedure, 1908 but shall be guided by the principles of natural justice and subject to the other provisions of this Act and any rules made thereunder, the Tribunal shall have the power to lay down and regulate its own procedure including the fixing of place and time of its inquiry and deciding whether to sit in public or *in camera*.

Procedure and  
powers of the  
Tribunal.

(2) The Tribunal shall decide every application made to it as expeditiously as possible after a perusal of documents, affidavits and written representations and after hearing such oral arguments as may be advanced:

Provided that where the Tribunal deems it necessary, for reasons to be recorded in writing, it may allow oral evidence to be adduced.

(3) No adjournment shall be granted by the Tribunal without recording the reasons justifying the grant of such adjournment and cost shall be awarded, if a party requests for adjournment more than twice.

Term of sentence and its effect on appeal.

24. (1) The term of any sentence passed by the Tribunal under clause (a) of sub-section (6) of section 15 of this Act shall, unless the Tribunal otherwise directs, be reckoned to commence on the day on which it would have commenced under the Army Act, 1950, the Navy Act, 1957 or the Air Force Act, 1950, as the case may be, under which the court martial against which the appeal was filed, had been held.

46 of 1950.

62 of 1957.

45 of 1950.

(2) Subject to the provisions of sub-section (3), any sentence passed on an appeal from the Tribunal to the Supreme Court in substitution for another sentence shall, unless the Supreme Court otherwise directs, be reckoned to commence on the day on which the original sentence would have commenced.

(3) Where a person who is undergoing sentence is granted stay of the operation of the said sentence, either by suspension or otherwise, pending an appeal, the period during which he is so released due to the sentence having been so stayed, shall be excluded in computing the term for which he is so sentenced by the Tribunal or the Supreme Court, as the case may be.

Right of applicant or of appellant to take assistance of a legal practitioner and of Government, etc., to appoint counsel.

25. (1) A person making an application or preferring an appeal to the Tribunal may either appear in person or take the assistance of a legal practitioner of his choice to present his case before the Tribunal.

(2) The Central Government or the competent authority, as may be prescribed, may authorise one or more legal practitioners or any of its law officers to act as counsel and every person so authorised by it may present its case with respect to any application or appeal, as the case may be, before the Tribunal.

Condition as to making of interim order.

26. (1) Notwithstanding anything contained in any other provisions of this Act or in any other law for the time being in force, no interim order (whether by way of injunction or stay or in any other manner) shall be made on an application or appeal, or in any proceeding relating thereto, unless,—

(a) copies of such application or appeal, as the case may be, and all documents in support of the plea for such interim order are furnished to the party against whom such application or appeal, as the case may be, is made or proposed to be made; and

(b) opportunity of being heard is given to the other party in the matter:

Provided that the Tribunal may dispense with the requirements of clauses (a) and (b) and make an interim order as an exceptional measure if it is satisfied, for reasons to be recorded in writing, that it is necessary so to do for preventing any loss being caused to the applicant or to the appellant, as the case may be.

(2) Where any party against whom an interim order, whether by way of injunction or stay or in any other manner, is made on an application or appeal or in any proceeding relating thereto under sub-section (1), without—

(a) furnishing to such party copies of such application or appeal, as the case may be, and all documents in support of the plea for such interim order; and

(b) giving such party an opportunity of being heard, and making an application to the Tribunal for the vacation of such order and furnishing a copy of such application



or appeal, as the case may be, to the party in whose favour such order has been made or the counsel of such party,

the Tribunal shall dispose of the application within a period of fourteen days from the date on which it is received or from the date on which the copy of such application is so furnished, whichever is later, or where the Tribunal is closed on the last day of that period, before the expiry of the next working day; and if the application is not so disposed of, the interim order shall, on the expiry of that period, or, as the case may be, the expiry of the said next working day, stand vacated.

27. On the application of any of the parties and after notice to the parties concerned, and after hearing such of them as he may desire to be heard, or on his own motion without such notice, the Chairperson may transfer any case pending before one Bench for disposal, to any other Bench.

Power of  
Chairperson  
to transfer  
cases from  
one Bench to  
another.

28. If the Members of a Bench differ in opinion on any point, the point shall be decided according to the opinion of the majority, if there is a majority, but if the Members are equally divided, they shall state the point or points on which they differ and make a reference to the Chairperson who shall either hear the point or points himself or refer the case for hearing on such point or points by one or more of the Members of the Tribunal and such point or points shall be decided according to the opinion of the majority of the Members of the Tribunal who have heard the case, including those who first heard it.

Decision to be  
by majority.

29. Subject to the other provisions of this Act and the rules made thereunder, the order of the Tribunal disposing of an application shall be final and shall not be called in question in any Court and such order shall be executed accordingly.

Execution of  
order of  
Tribunal.

## CHAPTER V

### APPEAL

30. (1) Subject to the provisions of section 31, an appeal shall lie to the Supreme Court against the final decision or order of the Tribunal (other than an order passed under section 19):

Appeal to  
Supreme  
Court.

Provided that such appeal is preferred within a period of ninety days of the said decision or order:

Provided further that there shall be no appeal against an interlocutory order of the Tribunal.

(2) An appeal shall lie to the Supreme Court as of right from any order or decision of the Tribunal in the exercise of its jurisdiction to punish for contempt:

Provided that an appeal under this sub-section shall be filed in the Supreme Court within sixty days from the date of the order appealed against.

(3) Pending any appeal under sub-section (2), the Supreme Court may order that—

(a) the execution of the punishment or the order appealed against be suspended;

or

(b) if the appellant is in confinement, he be released on bail:

Provided that where an appellant satisfies the Tribunal that he intends to prefer an appeal, the Tribunal may also exercise any of the powers conferred under clause (a) or clause (b), as the case may be.

Leave to  
appeal.

31. (1) An appeal to the Supreme Court shall lie with the leave of the Tribunal; and such leave shall not be granted unless it is certified by the Tribunal that a point of law of general public importance is involved in the decision, or it appears to the Supreme Court that the point is one which ought to be considered by that Court.

(2) An application to the Tribunal for leave to appeal to the Supreme Court shall be made within a period of thirty days beginning with the date of the decision of the Tribunal and an application to the Supreme Court for leave shall be made within a period of thirty days beginning with the date on which the application for leave is refused by the Tribunal.

(3) An appeal shall be treated as pending until any application for leave to appeal is disposed of and if leave to appeal is granted, until the appeal is disposed of; and an application for leave to appeal shall be treated as disposed of at the expiration of the time within which it might have been made, but it is not made within that time.

Condonation.

32. The Supreme Court may, upon an application made at any time by the appellant, extend the time within which an appeal may be preferred by him to that Court under section 30 or sub-section (2) of section 31.

## CHAPTER VI

### MISCELLANEOUS

Exclusion of  
jurisdiction of  
civil courts.

33. On and from the date from which any jurisdiction, powers and authority becomes exercisable by the Tribunal in relation to service matters under this Act, no Civil Court shall have, or be entitled to exercise, such jurisdiction, power or authority in relation to those service matters.

Transfer of  
pending cases.

34. (1) Every suit, or other proceeding pending before any court including a High Court or other authority immediately before the date of establishment of the Tribunal under this Act, being a suit or proceeding the cause of action whereon it is based, is such that it would have been within the jurisdiction of the Tribunal, if it had arisen after such establishment within the jurisdiction of such Tribunal, stand transferred on that date to such Tribunal.

(2) Where any suit, or other proceeding stands transferred from any court including a High Court or other authority to the Tribunal under sub-section (1),—

(a) the court or other authority shall, as soon as may be, after such transfer, forward the records of such suit, or other proceeding to the Tribunal;

(b) the Tribunal may, on receipt of such records, proceed to deal with such suit, or other proceeding, so far as may be, in the same manner as in the case of an application made under sub-section (2) of section 14, from the stage which was reached before such transfer or from any earlier stage or *de novo* as the Tribunal may deem fit.

Provision for  
filing of  
certain  
appeals.

35. Where any decree or order has been made or passed by any court (other than a High Court) or any other authority in any suit or proceeding before the establishment of the Tribunal, being a suit or proceeding the cause of action whereon it is based, is such that it would have been, if it had arisen after such establishment, within the jurisdiction of the Tribunal, and no appeal has been preferred against such decree or order before such establishment or if preferred, the same is pending for disposal before any court including High Court and the time for preferring such appeal under any law for the time being in force had not expired before such establishment, such appeal shall lie to the Tribunal, within ninety days from the date on which the Tribunal is established, or within ninety days from the date of receipt of the copy of such decree or order, whichever is later.

- 45 of 1860. 36. All proceedings before the Tribunal shall be deemed to be judicial proceedings within the meaning of sections 193, 219 and 228 of the Indian Penal Code. Proceedings before Tribunal to be judicial proceedings.
- 45 of 1860. 37. The Chairperson, other Members and the officers and other employees provided under section 13 to the Tribunal shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code. Members and staff of Tribunal to be public servants.
38. No suit, prosecution or other legal proceeding shall lie against the Central Government or against the Chairperson or any other Member or any other person authorised by the Chairperson, for anything which is done in good faith or intended to be done in pursuance of this Act or any rule or order made thereunder in the discharge of official duties. Protection of action taken in good faith.
39. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act. Act to have overriding effect.
40. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for removing the difficulty: Power to remove difficulties.
- Provided that no order shall be made under this section after the expiry of two years from the date of commencement of this Act.
- (2) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.
41. (1) The Central Government may, by notification, make rules for the purposes of carrying out the provisions of this Act. Power of Central Government to make rules.
- (2) Without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—
- (a) the case or cases which shall be decided by a Bench composed of more than two Members under clause (c) of sub-section (3) of section 5;
  - (b) the procedure under sub-section (3) of section 9 for the investigation of misbehaviour or incapacity of Chairperson or other Member;
  - (c) the salaries and allowances payable to, and the other terms and conditions of service of the Chairperson and other Members under section 10;
  - (d) the financial and administrative powers which the Chairperson may exercise over the Benches of the Tribunal under section 12;
  - (e) the salaries and allowances payable to, and other terms and conditions of service of the officers and other employees of the Tribunal under sub-section (2) of section 13;
  - (f) the form in which an application may be made under sub-section (2) of section 14, the documents and other evidence by which such application shall be accompanied and the fee payable in respect of the filing of such application or for the service of execution of processes;
  - (g) the other matter which may be prescribed under clause (i) of sub-section (4) of section 14;



(h) the form and manner in which an appeal may be filed, the fee payable thereon and the time within which such appeal may be filed under sub-section (2) of section 15;

(i) the rules subject to which the Tribunal shall have power to regulate its own procedure under sub-section (1) of section 23;

(j) competent authority who may authorise legal practitioners or law officers to act as counsel under sub-section (2) of section 25;

(k) any other matter which may be prescribed or in respect of which rules are required to be made by the Central Government.

Power to make  
rules retro-  
spectively.

42. The powers to make rules under section 41 shall include the power to make such rules or any of them retrospectively from a date not earlier than the date on which this Act shall come into operation but no such retrospective effect shall be given to any such rule so as to prejudicially affect the interests of any person to whom such rule may be applicable.

Laying of  
rules.

43. Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Sd/-

**DR. K. N. CHATURVEDI,**  
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

**H. D. VYAS-**  
Secretary to Government.

-----  
Government Central Press, Gandhinagar.





सत्यमेव जयते

# The Gujarat Government Gazette

## EXTRAORDINARY

### PUBLISHED BY AUTHORITY

Vol. XLIX]

MONDAY, MARCH 31, 2008/CAITRA 11, 1930

Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

#### PART VI

Acts of Parliament and Ordinances Promulgated by the President.

#### LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 31<sup>st</sup> March, 2008.

No. RPB/15-2008/Act-56--07/E:-The following Act of Parliament is republished for General information:-

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

Legislative Department

New Delhi, the 31<sup>st</sup> December, 2007, Pausa 10, 1929 (Sake)

The following Act of Parliament has received the assent of the President on the 29<sup>th</sup> December, 2007, is hereby published for general information:-

#### THE MAINTENANCE AND WELFARE OF PARENTS AND SENIOR CITIZENS ACT, 2007

AN ACT

(Act No. 56 of 2007)

[29<sup>th</sup> DECEMBER, 2007]

*to provide for more effective provisions for the maintenance and welfare of parents and senior citizens guaranteed and recognised under the Constitution and for matters connected therewith or incidental thereto.*

BE it enacted by Parliament in the Fifty-eighth Year of the Republic of India as follows:—

#### CHAPTER I

#### PRELIMINARY

1. (1) This Act may be called the Maintenance and Welfare of Parents and Senior Citizens Act, 2007.

Short title,  
extent,  
application  
and com-  
mencement.

(2) It extends to the whole of India except the State of Jammu and Kashmir and it applies also to citizens of India outside India.

(3) It shall come into force in a State on such date as the State Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) "children" includes son, daughter, grandson and grand-daughter but does not include a minor;

(b) "maintenance" includes provision for food, clothing, residence and medical attendance and treatment;

(c) "minor" means a person who, under the provisions of the Indian Majority Act, 1875, is deemed not to have attained the age of majority;

9 of 1875.

(d) "parent" means father or mother whether biological, adoptive or step father or step mother, as the case may be, whether or not the father or the mother is a senior citizen;

(e) "prescribed" means prescribed by rules made by the State Government under this Act;

(f) "property" means property of any kind, whether movable or immovable, ancestral or self acquired, tangible or intangible and includes rights or interests in such property;

(g) "relative" means any legal heir of the childless senior citizen who is not a minor and is in possession of or would inherit his property after his death;

(h) "senior citizen" means any person being a citizen of India, who has attained the age of sixty years or above;

(i) "State Government", in relation to a Union territory, means the administrator thereof appointed under article 239 of the Constitution;

(j) "Tribunal" means the Maintenance Tribunal constituted under section 7;

(k) "welfare" means provision for food, health care, recreation centres and other amenities necessary for the senior citizens.

Act to have  
overriding  
effect.

3. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act, or in any instrument having effect by virtue of any enactment other than this Act.

## CHAPTER II

### MAINTENANCE OF PARENTS AND SENIOR CITIZENS

Maintenance  
of parents and  
senior citizens.

4. (1) A senior citizen including parent who is unable to maintain himself from his own earning or out of the property owned by him, shall be entitled to make an application under section 5 in case of—

(i) parent or grand-parent, against one or more of his children not being a minor;

(ii) a childless senior citizen, against such of his relative referred to in clause (g) of section 2.

(2) The obligation of the children or relative, as the case may be, to maintain a senior citizen extends to the needs of such citizen so that senior citizen may lead a normal life.

(3) The obligation of the children to maintain his or her parent extends to the needs of such parent either father or mother or both, as the case may be, so that such parent may lead a normal life.

(4) Any person being a relative of a senior citizen and having sufficient means shall maintain such senior citizen provided he is in possession of the property of such senior citizen or he would inherit the property of such senior citizen:

Provided that where more than one relatives are entitled to inherit the property of a senior citizen, the maintenance shall be payable by such relative in the proportion in which they would inherit his property.

Application for  
maintenance.

5. (1) An application for maintenance under section 4, may be made—

(a) by a senior citizen or a parent, as the case may be; or

(b) if he is incapable, by any other person or organisation authorised by him; or

(c) the Tribunal may take cognizance *suo motu*.

21 of 1860.

**Explanation.**— For the purposes of this section "organisation" means any voluntary association registered under the Societies Registration Act, 1860, or any other law for the time being in force.

(2) The Tribunal may, during the pendency of the proceeding regarding monthly allowance for the maintenance under this section, order such children or relative to make a monthly allowance for the interim maintenance of such senior citizen including parent and to pay the same to such senior citizen including parent as the Tribunal may from time to time direct.

(3) On receipt of an application for maintenance under sub-section (1), after giving notice of the application to the children or relative and after giving the parties an opportunity of being heard, hold an inquiry for determining the amount of maintenance.

(4) An application filed under sub-section (2) for the monthly allowance for the maintenance and expenses for proceeding shall be disposed of within ninety days from the date of the service of notice of the application to such person:

Provided that the Tribunal may extend the said period, once for a maximum period of thirty days in exceptional circumstances for reasons to be recorded in writing.

(5) An application for maintenance under sub-section (1) may be filed against one or more persons:

Provided that such children or relative may implead the other person liable to maintain parent in the application for maintenance.

(6) Where a maintenance order was made against more than one person, the death of one of them does not affect the liability of others to continue paying maintenance.

(7) Any such allowance for the maintenance and expenses for proceeding shall be payable from the date of the order, or, if so ordered, from the date of the application for maintenance or expenses of proceeding, as the case may be.

(8) If, children or relative so ordered fail, without sufficient cause to comply with the order, any such Tribunal may, for every breach of the order, issue a warrant for levying the amount due in the manner provided for levying fines, and may sentence such person for the whole, or any part of each month's allowance for the maintenance and expenses of proceeding, as the case may be, remaining unpaid after the execution of the warrant, to imprisonment for a term which may extend to one month or until payment if sooner made whichever is earlier:

Provided that no warrant shall be issued for the recovery of any amount due under this section unless application be made to the Tribunal to levy such amount within a period of three months from the date on which it became due.

6. (1) The proceedings under section 5 may be taken against any children or relative in any district—

(a) where he resides or last resided; or

(b) where children or relative resides.

(2) On receipt of the application under section 5, the Tribunal shall issue a process for procuring the presence of children or relative against whom the application is filed.

(3) For securing the attendance of children or relative the Tribunal shall have the power of a Judicial Magistrate of first class as provided under the Code of Criminal Procedure, 1973.

2 of 1974.

(4) All evidence to such proceedings shall be taken in the presence of the children or relative against whom an order for payment of maintenance is proposed to be made, and shall be recorded in the manner prescribed for summons cases:

Provided that if the Tribunal is satisfied that the children or relative against whom an order for payment of maintenance is proposed to be made is wilfully avoiding service, or

Jurisdiction  
and procedure.



wilfully neglecting to attend the Tribunal, the Tribunal may proceed to hear and determine the case *ex parte*.

(5) Where the children or relative is residing out of India, the summons shall be served by the Tribunal through such authority, as the Central Government may by notification in the official Gazette, specify in this behalf.

(6) The Tribunal before hearing an application under section 5 may, refer the same to a Conciliation Officer and such Conciliation Officer shall submit his findings within one month and if amicable settlement has been arrived at, the Tribunal shall pass an order to that effect.

*Explanation.*— For the purposes of this sub-section "Conciliation Officer" means any person or representative of an organisation referred to in *Explanation* to sub-section (1) of section 5 or the Maintenance Officers designated by the State Government under sub-section (1) of section 18 or any other person nominated by the Tribunal for this purpose.

Constitution of  
Maintenance  
Tribunal.

7. (1) The State Government shall within a period of six months from the date of the commencement of this Act, by notification in the Official Gazette, constitute for each Sub-division one or more Tribunals as may be specified in the notification for the purpose of adjudicating and deciding upon the order for maintenance under section 5.

(2) The Tribunal shall be presided over by an officer not below the rank of Sub-Divisional Officer of a State.

(3) Where two or more Tribunals are constituted for any area, the State Government may, by general or special order, regulate the distribution of business among them.

Summary  
procedure in  
case of inquiry.

8. (1) In holding any inquiry under section 5, the Tribunal may, subject to any rules that may be prescribed by the State Government in this behalf, follow such summary procedure as it deems fit.

(2) The Tribunal shall have all the powers of a Civil Court for the purpose of taking evidence on oath and of enforcing the attendance of witnesses and of compelling the discovery and production of documents and material objects and for such other purposes as may be prescribed; and the Tribunal shall be deemed to be a Civil Court for all the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.

2 of 1974.

(3) Subject to any rule that may be made in this behalf, the Tribunal may, for the purpose of adjudicating and deciding upon any claim for maintenance, choose one or more persons possessing special knowledge of any matter relevant to the inquiry to assist it in holding the inquiry.

Order for  
maintenance.

9. (1) If children or relatives, as the case may be, neglect or refuse to maintain a senior citizen being unable to maintain himself, the Tribunal may, on being satisfied of such neglect or refusal, order such children or relatives to make a monthly allowance at such monthly rate for the maintenance of such senior citizen, as the Tribunal may deem fit and to pay the same to such senior citizen as the Tribunal may, from time to time, direct.

(2) The maximum maintenance allowance which may be ordered by such Tribunal shall be such as may be prescribed by the State Government which shall not exceed ten thousand rupees per month.

Alteration in  
allowance.

10. (1) On proof of misrepresentation or mistake of fact or a change in the circumstances of any person, receiving a monthly allowance under section 9, for the maintenance ordered under that section to pay a monthly allowance for the maintenance, the Tribunal may make such alteration, as it thinks fit, in the allowance for the maintenance.

(2) Where it appears to the Tribunal that, in consequence of any decision of a competent Civil Court, any order made under section 9 should be cancelled or varied, it shall cancel the order or, as the case may be, vary the same accordingly.

Enforcement  
of order of  
maintenance.

11. (1) A copy of the order of maintenance and including the order regarding expenses of proceedings, as the case may be, shall be given without payment of any fee to the senior



citizen or to parent, as the case may be, in whose favour it is made and such order may be enforced by any Tribunal in any place where the person against whom it is made, such Tribunal on being satisfied as to the identity of the parties and the non-payment of the allowance, or as the case may be, expenses, due.

2 of 1974.

(2) A maintenance order made under this Act shall have the same force and effect as an order passed under Chapter IX of the Code of Criminal Procedure, 1973 and shall be executed in the manner prescribed for the execution of such order by that Code.

2 of 1974.

12. Notwithstanding anything contained in Chapter IX of the Code of Criminal Procedure, 1973, where a senior citizen or a parent is entitled for maintenance under the said Chapter and also entitled for maintenance under this Act may, without prejudice to the provisions of Chapter IX of the said Code, claim such maintenance under either of those Acts but not under both.

Option regarding maintenance in certain cases.

13. When an order is made under this Chapter, the children or relative who is required to pay any amount in terms of such order shall, within thirty days of the date of announcing the order by the Tribunal, deposit the entire amount ordered in such manner as the Tribunal may direct.

Deposit of maintenance amount.

14. Where any Tribunal makes an order for maintenance made under this Act, such Tribunal may direct that in addition to the amount of maintenance, simple interest shall also be paid at such rate and from such date not earlier than the date of making the application as may be determined by the Tribunal which shall not be less than five per cent. and not more than eighteen per cent.:

Award of interest where any claim is allowed.

2 of 1974.

Provided that where any application for maintenance under Chapter IX of the Code of Criminal Procedure, 1973 is pending before a Court at the commencement of this Act, then the Court shall allow the withdrawal of such application on the request of the parent and such parent shall be entitled to file an application for maintenance before the Tribunal.

15. (1) The State Government may, by notification in the Official Gazette, constitute one Appellate Tribunal for each district to hear the appeal against the order of the Tribunal.

Constitution of Appellate Tribunal.

(2) The Appellate Tribunal shall be presided over by an officer not below the rank of District Magistrate.

16. (1) Any senior citizen or a parent, as the case may be, aggrieved by an order of a Tribunal may, within sixty days from the date of the order, prefer an appeal to the Appellate Tribunal:

Appeals.

Provided that on appeal, the children or relative who is required to pay any amount in terms of such maintenance order shall continue to pay to such parent the amount so ordered, in the manner directed by the Appellate Tribunal:

Provided further that the Appellate Tribunal may, entertain the appeal after the expiry of the said period of sixty days, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal in time.

(2) On receipt of an appeal, the Appellate Tribunal shall, cause a notice to be served upon the respondent.

(3) The Appellate Tribunal may call for the record of proceedings from the Tribunal against whose order the appeal is preferred.

(4) The Appellate Tribunal may, after examining the appeal and the records called for either allow or reject the appeal.

(5) The Appellate Tribunal shall, adjudicate and decide upon the appeal filed against the order of the Tribunal and the order of the Appellate Tribunal shall be final:

Provided that no appeal shall be rejected unless an opportunity has been given to both the parties of being heard in person or through a duly authorised representative.

(6) The Appellate Tribunal shall make an endeavour to pronounce its order in writing within one month of the receipt of an appeal.

(7) A copy of every order made under sub-section (5) shall be sent to both the parties free of cost.

Right to legal representation.

17. Notwithstanding anything contained in any law, no party to a proceeding before a Tribunal or Appellate Tribunal shall be represented by a legal practitioner.

Maintenance Officer.

18. (1) The State Government shall designate the District Social Welfare Officer or an officer not below the rank of a District Social Welfare Officer, by whatever name called as Maintenance Officer.

(2) The Maintenance Officer referred to in sub-section (1), shall represent a parent if he so desires, during the proceedings of the Tribunal, or the Appellate Tribunal, as the case may be.

### CHAPTER III

#### ESTABLISHMENT OF OLDAGE HOMES

Establishment of oldage homes.

19. (1) The State Government may establish and maintain such number of oldage homes at accessible places, as it may deem necessary, in a phased manner, beginning with at least one in each district to accommodate in such homes a minimum of one hundred fifty senior citizens who are indigent.

(2) The State Government may, prescribe a scheme for management of oldage homes, including the standards and various types of services to be provided by them which are necessary for medical care and means of entertainment to the inhabitants of such homes.

*Explanation.*—For the purposes of this section, "indigent" means any senior citizen who is not having sufficient means, as determined by the State Government, from time to time, to maintain himself.

### CHAPTER IV

#### PROVISIONS FOR MEDICAL CARE OF SENIOR CITIZEN

Medical support for senior citizen.

20. The State Government shall ensure that,—

(i) the Government hospitals or hospitals funded fully or partially by the Government shall provide beds for all senior citizens as far as possible;

(ii) separate queues be arranged for senior citizens;

(iii) facility for treatment of chronic, terminal and degenerative diseases is expanded for senior citizens;

(iv) research activities for chronic elderly diseases and ageing is expanded;

(v) there are earmarked facilities for geriatric patients in every district hospital duly headed by a medical officer with experience in geriatric care.

### CHAPTER V

#### PROTECTION OF LIFE AND PROPERTY OF SENIOR CITIZEN

Measures for publicity, awareness, etc., for welfare of senior citizen.

21. The State Government shall, take all measures to ensure that—

(i) the provisions of this Act are given wide publicity through public media including the television, radio and the print, at regular intervals;

(ii) the Central Government and State Government Officers, including the police officers and the members of the judicial service, are given periodic sensitization and awareness training on the issues relating to this Act;

(iii) effective co-ordination between the services provided by the concerned Ministries or Departments dealing with law, home affairs, health and welfare, to address the issues relating to the welfare of the senior citizens and periodical review of the same is conducted.

22. (1) The State Government may, confer such powers and impose such duties on a District Magistrate as may be necessary, to ensure that the provisions of this Act are properly carried out and the District Magistrate may specify the officer, subordinate to him, who shall exercise all or any of the powers, and perform all or any of the duties, so conferred or imposed and the local limits within which such powers or duties shall be carried out by the officer as may be prescribed.

Authorities who may be specified for implementing the provisions of this Act.

(2) The State Government shall prescribe a comprehensive action plan for providing protection of life and property of senior citizens.

23. (1) Where any senior citizen who, after the commencement of this Act, has transferred by way of gift or otherwise, his property, subject to the condition that the transferee shall provide the basic amenities and basic physical needs to the transferor and such transferee refuses or fails to provide such amenities and physical needs, the said transfer of property shall be deemed to have been made by fraud or coercion or under undue influence and shall at the option of the transferor be declared void by the Tribunal.

Transfer of property to be void in certain circumstances.

(2) Where any senior citizen has a right to receive maintenance out of an estate and such estate or part thereof is transferred, the right to receive maintenance may be enforced against the transferee if the transferee has notice of the right, or if the transfer is gratuitous; but not against the transferee for consideration and without notice of right.

(3) If, any senior citizen is incapable of enforcing the rights under sub-sections (1) and (2), action may be taken on his behalf by any of the organisation referred to in Explanation to sub-section (1) of section 5.

#### CHAPTER VI

##### OFFENCES AND PROCEDURE FOR TRIAL

24. Whoever, having the care or protection of senior citizen leaves, such senior citizen in any place with the intention of wholly abandoning such senior citizen, shall be punishable with imprisonment of either description for a term which may extend to three months or fine which may extend to five thousand rupees or with both.

Exposure and abandonment of senior citizen.

2 of 1974.

25. (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, every offence under this Act shall be cognizable and bailable.

Cognizance of offences.

(2) An offence under this Act shall be tried summarily by a Magistrate.

#### CHAPTER VII

##### MISCELLANEOUS

26. Every officer or staff appointed to exercise functions under this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

Officers to be public servants.

27. No Civil Court shall have jurisdiction in respect of any matter to which any provision of this Act applies and no injunction shall be granted by any Civil Court in respect of anything which is done or intended to be done by or under this Act.

Jurisdiction of civil courts barred.

28. No suit, prosecution or other legal proceeding shall lie against the Central Government, the State Governments or the local authority or any officer of the Government in respect of anything which is done in good faith or intended to be done in pursuance of this Act and any rules or orders made thereunder.

Protection of action taken in good faith.

29. If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removing the difficulty:

Power to remove difficulties.

45 of 1860.

Provided that no such order shall be made after the expiry of a period of two years from the date of the commencement of this Act.

Power of Central Government to give directions.

30. The Central Government may give directions to State Governments as to the carrying into execution of the provisions of this Act.

Power of Central Government to review.

31. The Central Government may make periodic review and monitor the progress of the implementation of the provisions of this Act by the State Governments.

Power of State Government to make rules.

32. (1) The State Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the manner of holding inquiry under section 5 subject to such rules as may be prescribed under sub-section (1) of section 8;

(b) the power and procedure of the Tribunal for other purposes under sub-section (2) of section 8;

(c) the maximum maintenance allowance which may be ordered by the Tribunal under sub-section (2) of section 9;

(d) the scheme for management of oldage homes, including the standards and various types of services to be provided by them which are necessary for medical care and means of entertainment to the inhabitants of such homes under sub-section (2) of section 19;

(e) the powers and duties of the authorities for implementing the provisions of this Act, under sub-section (1) of section 22;

(f) a comprehensive action plan for providing protection of life and property of senior citizens under sub-section (2) of section 22;

(g) any other matter which is to be, or may be, prescribed.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of State Legislature, where it consists of two houses or where such legislature consists of one House, before that House.

sd/-

DR. K. N. CHATURVEDI,

Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

H. D. VYAS

Secretary to Government.





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# The Gujarat Government Gazette

## EXTRAORDINARY

### PUBLISHED BY AUTHORITY

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Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

#### PART - VI

Acts of Parliament and Ordinances promulgated by the President.

#### LEGISLATIVE & PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 10<sup>th</sup> September, 2008.

No. RPB/26-2008/Act-11-08/E :-The following Act of Parliament is republished for general information :-

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

Legislative Department

New Delhi, the 28<sup>th</sup> March, 2008, Chitra 8, 1930 (Sake)

The following Act of Parliament has received the assent of the President on the 28<sup>th</sup> March, 2008, is hereby published for general information :-

#### THE RAILWAYS (AMENDMENT) ACT, 2008

AN ACT

(Act No.11 of 2008)

[28<sup>th</sup> March, 2008]

*further to amend the Railways Act, 1989.*

Be it enacted by Parliament in the Fifty-ninth Year of the Republic of India as follows :-

1. (1) This Act may be called the Railways (Amendment) Act, 2008.
- (2) It shall be deemed to have come into force on the 31st day of January, 2008.
2. In section 2 of the Railways Act, 1989 (hereinafter referred to as the principal Act),—
  - (a) after clause (7), the following clause shall be inserted, namely:—
 

“(7A) “competent authority” means any person authorised by the Central Government, by notification, to perform the functions of the competent authority for such area as may be specified in the notification;”;
  - (b) after clause (29), the following clause shall be inserted, namely:—
 

“(29A) “person interested” includes,—

    - (i) all persons claiming an interest in compensation to be made on account of the acquisition of land under this Act;

Short title  
and  
commencement.  
  
Amendment  
of section 2.

24 of 1989.

(ii) tribals and other traditional forest dwellers, who have lost any traditional rights recognised under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006;

2 of 2007.

(iii) a person interested in an easement affecting the land; and

(iv) persons having tenancy rights under the relevant State laws;;

(c) after clause (37), the following clause shall be inserted, namely:—

“(37A) “special railway project” means a project, notified as such by the Central Government from time to time, for providing national infrastructure for a public purpose in a specified time-frame, covering one or more States or the Union territories;”.

Insertion of  
new Chapter  
IVA.

3. After Chapter IV of the principal Act, the following Chapter shall be inserted, namely:—

#### CHAPTER IVA

##### LAND ACQUISITION FOR A SPECIAL RAILWAY PROJECT

Power to  
acquire land,  
etc.

20A. (1) Where the Central Government is satisfied that for a public purpose any land is required for execution of a special railway project, it may, by notification, declare its intention to acquire such land.

(2) Every notification under sub-section (1), shall give a brief description of the land and of the special railway project for which the land is intended to be acquired.

(3) The State Government or the Union territory, as the case may be, shall for the purposes of this section, provide the details of the land records to the competent authority, whenever required.

(4) The competent authority shall cause the substance of the notification to be published in two local newspapers, one of which shall be in a vernacular language.

Power to  
enter for  
survey, etc.

20B. On the issue of a notification under sub-section (1) of section 20A, it shall be lawful for any person, authorised by the competent authority in this behalf, to—

(a) make any inspection, survey, measurement, valuation or enquiry;

(b) take levels;

(c) dig or bore into sub-soil;

(d) set out boundaries and intended lines of work;

(e) mark such levels, boundaries and lines placing marks and cutting trenches; or

(f) do such other acts or things as may be considered necessary by the competent authority.

Evaluation of  
damages  
during survey,  
measurement,  
etc.

20C. The damages caused while carrying out works on land such as survey, digging or boring sub-soil, marking boundaries or cutting trenches or clearing away any standing crop, fence or forest or doing such other acts or things which may cause damages while acting under section 20B particularly relating to land which is excluded from acquisition proceeding, shall be evaluated and compensation shall be paid to the persons having interest in that land, within six months from the completion of the said works.

Hearing of  
objections,  
etc.

20D. (1) Any person interested in the land may, within a period of thirty days from the date of publication of the notification under sub-section (1) of section 20A, object to the acquisition of land for the purpose mentioned in that sub-section.

(2) Every objection under sub-section (1), shall be made to the competent authority in writing, and shall set out the grounds thereof and the competent authority shall give the objector an opportunity of being heard, either in person or by a legal practitioner, and may, after hearing all such objections and after making such further enquiry, if any, as the competent authority thinks necessary, by order, either allow or disallow the objections.

25 of 1961.

*Explanation.*—For the purposes of this sub-section, “legal practitioner” has the same meaning as in clause (i) of sub-section (1) of section 2 of the Advocates Act, 1961.

(3) Any order made by the competent authority under sub-section (2) shall be final.

20E. (1) Where no objection under sub-section (1) of section 20D has been made to the competent authority within the period specified therein or where the competent authority has disallowed the objections under sub-section (2) of that section, the competent authority shall, as soon as may be, submit a report accordingly to the Central Government and on receipt of such report, the Central Government shall declare, by notification, that the land should be acquired for the purpose mentioned in sub-section (1) of section 20A.

Declaration  
of  
acquisition.

(2) On the publication of the declaration under sub-section (1), the land shall vest absolutely in the Central Government free from all encumbrances.

(3) Where in respect of any land, a notification has been published under sub-section (1) of section 20A for its acquisition, but no declaration under sub-section (1) of this section has been published within a period of one year from the date of publication of that notification, the said notification shall cease to have any effect:

Provided that in computing the said period of one year, the period during which any action or proceedings to be taken in pursuance of the notification issued under sub-section (1) of section 20A is stayed by an order of a court shall be excluded.

(4) A declaration made by the Central Government under sub-section (1) shall not be called in question in any court or by any other authority.

20F. (1) Where any land is acquired under this Act, there shall be paid an amount which shall be determined by an order of the competent authority.

Determination  
of amount  
payable as  
compensation.

(2) The competent authority shall make an award under this section within a period of one year from the date of the publication of the declaration and if no award is made within that period, the entire proceedings for the acquisition of the land shall lapse:

Provided that the competent authority may, after the expiry of the period of limitation, if he is satisfied that the delay has been caused due to unavoidable circumstances, and for the reasons to be recorded in writing, he may make the award within an extended period of six months:

Provided further that where an award is made within the extended period, the entitled person shall, in the interest of justice, be paid an additional compensation for the delay in making of the award, every month for the period so extended, at the rate of not less than five per cent. of the value of the award, for each month of such delay.

(3) Where the right of user or any right in the nature of an easement on, any land is acquired under this Act, there shall be paid an amount to the owner and any other person whose right of enjoyment in that land has been affected in any manner whatsoever by reason of such acquisition, an amount calculated at ten per cent. of the amount determined under sub-section (1), for that land.



(4) Before proceeding to determine the amount under sub-section (1) or sub-section (3), as the case may be, the competent authority shall give a public notice published in two local newspapers, one of which shall be in a vernacular language inviting claims from all persons interested in the land to be acquired.

(5) Such notice shall state the particulars of the land and shall require all persons interested in such land to appear in person or by an agent or by a legal practitioner referred to in sub-section (2) of section 20D, before the competent authority, at a time and place and to state the nature of their respective interest in such land.

(6) If the amount determined by the competent authority under sub-section (1) or as the case may be, sub-section (3) is not acceptable to either of the parties, the amount shall, on an application by either of the parties, be determined by the arbitrator to be appointed by the Central Government in such manner as may be prescribed.

(7) Subject to the provisions of this Act, the provisions of the Arbitration and Conciliation Act, 1996 shall apply to every arbitration under this Act.

26 of 1996.

(8) The competent authority or the arbitrator while determining the amount of compensation under sub-section (1) or sub-section (6), as the case may be, shall take into consideration—

(a) the market value of the land on the date of publication of the notification under section 20A;

(b) the damage, if any sustained by the person interested at the time of taking possession of the land, by reason of the severing of such land from other land;

(c) the damage, if any, sustained by the person interested at the time of taking possession of the land, by reason of the acquisition injuriously affecting his other immovable property in any manner, or his earnings;

(d) if, in consequences of the acquisition of the land, the person interested is compelled to change his residence or place of business, the reasonable expenses, if any, incidental to such change.

(9) In addition to the market-value of the land as above provided, the competent authority or the arbitrator, as the case may be, shall in every case award a sum of sixty per centum on such market-value, in consideration of the compulsory nature of the acquisition.

Criterion for  
determination  
of market-  
value of land.

20G. (1) The competent authority shall adopt the following criteria in assessing and determining the market-value of the land,—

(i) the minimum land value, if any, specified in the Indian Stamp Act, 1899, for the registration of sale deeds in the area, where the land is situated; or

2 of 1899.

(ii) the average of the sale price for similar type of land situated in the village or vicinity, ascertained from not less than fifty per cent. of the sale deeds registered during the preceding three years, where higher price has been paid, whichever is higher.

(2) Where the provisions of sub-section (1) are not applicable for the reason that:—

(i) the land is situated in such area where the transactions in land are restricted by or under any other law for the time being in force in that area; or

(ii) the registered sale deeds for similar land as mentioned in clause (i) of sub-section (1) are not available for the preceding three years; or

(iii) the minimum land value has not been specified under the Indian Stamp Act, 1899 by the appropriate authority,

2 of 1899.



the concerned State Government shall specify the floor price per unit area of the said land based on the average higher prices paid for similar type of land situated in the adjoining areas or vicinity, ascertained from not less than fifty per cent. of the sale deeds registered during the preceding three years where higher price has been paid, and the competent authority may calculate the value of the land accordingly.

(3) The competent authority shall, before assessing and determining the market-value of the land being acquired under this Act,—

(a) ascertain the intended land use category of such land; and

(b) take into account the value of the land of the intended category in the adjoining areas or vicinity,

for the purpose of determination of the market-value of the land being acquired.

(4) In determining the market-value of the building and other immovable property or assets attached to the land or building which are to be acquired, the competent authority may use the services of a competent engineer or any other specialist in the relevant field, as may be considered necessary by the competent authority.

(5) The competent authority may, for the purpose of determining the value of trees and plants, use the services of experienced persons in the field of agriculture, forestry, horticulture, sericulture, or any other field, as may be considered necessary by him.

(6) For the purpose of assessing the value of the standing crops damaged during the process of land acquisition proceedings, the competent authority may utilise the services of experienced persons in the field of agriculture as he considers necessary.

20H. (1) The amount determined under section 20F shall be deposited by the Central Government, in such manner as may be prescribed by that Government, with the competent authority before taking possession of the land.

Deposit and  
payment of  
amount.

(2) As soon as may be after the amount has been deposited under sub-section (1), the competent authority shall on behalf of the Central Government pay the amount to the person or persons entitled thereto.

(3) Where several persons claim to be interested in the amount deposited under sub-section (1), the competent authority shall determine the persons who in its opinion are entitled to receive the amount payable to each of them.

(4) If any dispute arises as to the apportionment of the amount or any part thereof or to any person to whom the same or any part thereof is payable, the competent authority shall refer the dispute to the decision of the principal civil court of original jurisdiction within the limits of whose jurisdiction the land is situated.

(5) Where the amount determined under section 20F by the arbitrator is in excess of the amount determined by the competent authority, the arbitrator may award interest at nine per cent. per annum on such excess amount from the date of taking possession under section 20-I till the date of actual deposit thereof.

(6) Where the amount determined by the arbitrator is in excess of the amount determined by the competent authority, the excess amount together with interest, if any, awarded under sub-section (5) shall be deposited by the Central Government, in such manner as may be prescribed by that Government, with the competent authority and the provisions of sub-sections (2) to (4) shall apply to such deposit.

20-I. (1) Where any land has vested in the Central Government under sub-section (2) of section 20E, and the amount determined by the competent authority under section 20F with respect to such land has been deposited under sub-section (1) of section 20H with the competent authority by the Central Government, the competent

Power to  
take  
Possession.

authority may, by notice in writing, direct the owner as well as any other person who may be in possession of such land to surrender or deliver possession thereof to the competent authority or any person duly authorised by it in this behalf within a period of sixty days of the service of the notice.

(2) If any person refuses or fails to comply with any direction made under subsection (1), the competent authority shall apply—

(a) in case of any land situated in any area falling within the metropolitan area, to the Commissioner of Police;

(b) in case of any land situated in any area other than the area referred to in clause (a), to the Collector of a district,

and such Commissioner or Collector, as the case may be, shall enforce the surrender of the land, to the competent authority or to the person duly authorised by it.

20J. Where the land has vested in the Central Government under section 20E, it shall be lawful for any person authorised by the Central Government in this behalf, to enter and do other act necessary upon the land for carrying out the building, maintenance, management or operation of the special railway project or part thereof or any other work connected therewith.

20K. The competent authority shall have, for the purposes of this Act, all the powers of a civil court while trying a suit under the Code of Civil Procedure, 1908 in respect of the following matters, namely:—

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of any document;

(c) reception of evidence on affidavits;

(d) requisitioning any public record from any court or office;

(e) issuing commission for examination of witnesses.

20L. (1) The land acquired under this Act shall not be transferred to any other purpose except for a public purpose, and after obtaining the prior approval of the Central Government.

(2) When any land or part thereof, acquired under this Act remains unutilised for a period of five years from the date of taking over the possession, the same shall return to the Central Government by reversion.

20M. Whenever any land acquired under this Act is transferred to any person for a consideration, eighty per cent. of the difference in the acquisition cost and the consideration received, which in no case shall be less than the acquisition cost, shall be shared amongst the persons from whom the lands were acquired or their heirs, in proportion to the value at which the lands were acquired, and for the purpose, a separate fund may be maintained which shall be administered by the competent authority in such manner as may be prescribed by the Central Government.

20N. Nothing in the Land Acquisition Act, 1894 shall apply to an acquisition under this Act.

Right to enter into land where land has vested in Central Government.

Competent authority to have certain powers of civil court.

Utilisation of land for the purpose it is acquired.

Sharing with landowners the difference in price of a land when transferred for a higher consideration.

Land Acquisition Act 1 of 1894 not to apply.

20-O. The provisions of the National Rehabilitation and Resettlement Policy, 2007 for project affected families, notified by the Government of India in the Ministry of Rural Development vide number F. 26011/4/2007-LRD, dated the 31st October, 2007, shall apply in respect of acquisition of land by the Central Government under this Act.

Application of the National Rehabilitation and Resettlement Policy, 2007 to persons affected due to land acquisition.

20P. (1) The Central Government may, by notification, make rules to carry out the purposes of this Chapter.

Power to make rules in respect of matters in this Chapter.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the manner of appointment of arbitrator under sub-section (6) of section 20F;

(b) the manner in which the amount shall be deposited with the competent authority under sub-sections (1) and (6) of section 20H;

(c) the manner of maintenance and administration of separate fund for the purposes of section 20M.

Ord. 2 of 2008.

4. (1) The Railways (Amendment) Ordinance, 2008 is hereby repealed.

Repeal and savings.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the corresponding provisions of the principal Act, as amended by this Act.

Sd/-

K. D. SINGH

Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

H. D. VYAS,

Secretary to Government.



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# The Gujarat Government Gazette

## EXTRAORDINARY

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#### PART - VI

Acts of Parliament and Ordinances promulgated by the President.

#### LEGISLATIVE & PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 10<sup>th</sup> September, 2008.

No. RPB/27-2008/Act-12-08/E :-The following Act of Parliament is republished for general information :-

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

Legislative Department

New Delhi, the 28<sup>th</sup> March, 2008, Chitra 8, 1930 (Sake)

The following Act of Parliament has received the assent of the President on the 28<sup>th</sup> March, 2008, is hereby published for general information :-

#### THE PRASAR BHARATI (BROADCASTING CORPORATION OF INDIA) AMENDMENT Act, 2008

(Act No.12 of 2008)

AN ACT

[28<sup>th</sup> March, 2008]

*further to amend the Prasara Bharati (Broadcasting Corporation of India) Act, 1990.*

Be it enacted by Parliament in the Fifty-ninth Year of the Republic of India as follows :-

1. (1) This Act may be called the Prasara Bharati (Broadcasting Corporation of India) Amendment Act, 2008.

(2) It shall be deemed to have come into force on the 7th day of February, 2008.

Short title  
and  
Commence-  
ment.



Amendment  
of section 6.

2. In section 2 of the Prasar Bharati (Broadcasting Corporation of India), Act, 25 of 1990,-  
(a) for sub-section (1), the following shall be substituted, namely:-

"(1) The Chairman shall be Part-time Member and shall hold office for a term of three years from the date on which he enters upon his office or until he attains the age of seventy years, whichever is earlier;

Provided that any person holding office as a Chairman immediately before the commencement of the Prasar Bharati (Broadcasting Corporation of India) Amendment Act, 2008, shall, in so far as his appointment is inconsistent with the provisions of this sub-section, cease to hold office on such commencement as such chairman and shall not be entitled to any compensation because of his ceasing to hold such office.";

(b) in sub-section (2), the words "The Executive Member" shall be omitted;

(c) after sub-section (2), the following shall be inserted, namely :-

"(2A) The Executive Member shall be a Whole-time Member and shall hold office for a term of five years from the date on which he enters upon his office or until he attains the age of sixty-five years, whichever is earlier :

Provided that any person holding office as an Executive Member immediately before the commencement of the Prasar Bharati (Broadcasting Corporation of India) Amendment Act, 2008, shall, in so far as his appointment is inconsistent with the provisions of this sub-section, cease to hold office on such commencement as such Executive Member and shall not be entitled to any compensation because of his ceasing to hold such office."

Repeal and  
saving.

3. (1) The Prasar Bharati (Broadcasting Corporation of India) Amendment Ordinance, 2008, is hereby repealed. Ord. 5 of 2008.

(2) Notwithstanding such repeal, anything done or any action taken under the Prasar Bharati (Broadcasting Corporation of India) Act, 1990 as amended by the said Ordinance, shall be deemed to have been done or taken under the said Act, as amended by this Act. 25 of 1990.

Sd/-

K. D. SINGH

Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

H. D. VYAS,

Secretary to Government.



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### PART VI

Acts of Parliament and Ordinances Promulgated  
by the President.

#### LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 10<sup>th</sup> September, 2008.

No. : RPB/28-2008/Act-13-08/E :- The following Act of Parliament is republished  
for general information :-

Government of India

Ministry of Law and Justice

Legislative Department

New Delhi, the 28<sup>th</sup> March, 2008/Chitra 8, 1930 (Sake)

The Following Act of Parliament has received the assent of the President on the 28<sup>th</sup>  
March, 2008, is hereby published for general information :-

#### THE FOOD SAFETY AND STANDARDS (AMENDMENT) ACT, 2008

An

(Act No. 13 of 2008)

ACT

[28<sup>th</sup> March, 2008]

to amend the Food Safety and Standards Act, 2006

BE it enacted by Parliament in the Fifty-ninth Year of the Republic of India as  
follows :-

1. (1) This Act may be called the Food Safety and Standards (Amendment) Act, 2008.

Short title and  
commence-  
ment.

(2) It shall be deemed to have come into force on the 7<sup>th</sup> day of February, 2008.

34 of 2006.

2. In the Food Safety and Standards Act, 2006 (hereinafter referred to as the principal  
Act), in section 3, in sub-section (1), for clause (ze), the following clause shall be  
substituted, namely :-

Amendment  
of Section 3.

“(ze) “Member” includes a part-time Member and the Chairperson of the Food  
Authority;”.

Amendment  
of section 5.

3. In Section 5 of the principal Act, for sub-sections (4) and (5), the following sub-sections shall be substituted, namely :-

“(4) The Chairperson and the Members including part-time Members other than the *ex-officio* Members of the Food Authority may be appointed by the Central Government on the recommendations of the Selection Committee.

(5) The Chairperson of the Food Authority shall not hold any other office.”

Amendment  
of section 7.

4. In section 7 of the principal Act, in sub-section (1), for the proviso, the following proviso shall be substituted, namely :-

“Provided that the Chairperson shall not hold office as such after he has attained the age of sixty-five years.”

Repeal and  
saving.

5. (1) The Food Safety and Standards (Amendment) Ordinance, 2008 is hereby repealed.

Ord. 6  
2008.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act, as amended by this Act.

Sd/-

K. D. SINGH,

Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

H. D. VYAS,

Secretary to Government.



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#### LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 10<sup>th</sup> September, 2008.

No.: RPB/29-2008/Act-14-08/E :- The following Act of Parliament is republished  
for general information :-

Government of India

Ministry of Law and Justice

Legislative Department

New Delhi, the 2<sup>nd</sup> April, 2008/Caitra 13, 1930 (Sake)

The following Act of Parliament has received the assent of the President on the  
1<sup>st</sup> April, 2008 is hereby published for general information :-

#### THE CONSTITUTION (SCHEDULED TRIBES) ORDER (AMENDMENT) ACT, 2008

An

(Act No. 14 of 2008)

ACT

[1<sup>st</sup> April, 2008]

*further to amend the Constitution (Scheduled Tribes) Order, 1950 to modify the list of  
Scheduled Tribes in the State of Arunachal Pradesh.*

BE it enacted by Parliament in the Fifty-ninth Year of the Republic of India as  
follows :-

1. (1) This Act may be called the Constitution (Scheduled Tribes) Order (Amendment) Short title.  
Act, 2008.



Amendment of  
Part XVIII of  
Constitution  
(Scheduled  
Tribes) Order,  
1950.

2. In the Schedule to the Constitution (Scheduled Tribes) Order, 1950, in PART XVIII C.O. 22 relating to the State of Arunachal Pradesh, for entry 4, the following entry shall be substituted, namely :-

"4 Nyishi".

Sd/-

**K. D. SINGH,**

Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

**H. D. VYAS,**

Secretary to Government.



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Acts of Parliament and Ordinances Promulgated  
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#### LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 10<sup>th</sup> September, 2008.

No. : RPB/30-2008/Act-15-08/E :- The following Act of Parliament is republished  
for general information :-

Government of India

Ministry of Law and Justice

Legislative Department

New Delhi, the 2<sup>nd</sup> April, 2008/Chitra 12, 1930 (Sake)

The following Act of Parliament received the assent of the President on the  
1<sup>st</sup> April, 2008, is hereby published for general information :-

#### THE MATERNITY BENEFIT (AMENDMENT) ACT, 2008

An

ACT

(Act No. 15 of 2008)

[1<sup>st</sup> April, 2008]*further to amend the Maternity Benefit Act, 1961*

BE it enacted by Parliament in the Fifty-ninth Year of the Republic of India as  
follows :-

1. (1) This Act may be called the Maternity Benefit (Amendment) Act, 2008.

Short title and  
commencement.

(2) It shall come into force on such date as the Central Government may, by  
notification in the *Official Gazette*, appoint.

53 of 1961.

2. In the Maternity Benefit Act, 1961, for section 8, the following section shall be  
substituted, namely :-

Substitution of  
new section for  
section 8  
Payment of  
medical bonus.

“8. (1) Every woman entitled to maternity benefit under this Act shall also be  
entitled to receive from her employer a medical bonus of one thousand rupees, if no  
pre-natal confinement and post-natal care is provided for by the employer free of  
charge.

(2) The Central Government may before every three years, by notification in the *Official Gazette*, increase the amount of medical bonus subject to the maximum of twenty thousand rupees.”.

Sd/-

**K. D. SINGH,**

Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

**H. D. VYAS,**

Secretary to Government.

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### PART VI

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LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT  
Sachivalaya, Gandhinagar, 10<sup>th</sup> September, 2008.

No.: RPB/33-2008/Act-18-08/E :- The following Act of Parliament is republished for general information :-

Government of India  
Ministry of Law and Justice  
Legislative Department

New Delhi, the 10<sup>th</sup> May, 2008/Vaisakha 20, 1930 (Sake)

The Following Act of Parliament received the assent of the President on the 10<sup>th</sup> May, 2008 is hereby published for general information :-

#### THE FINANCE ACT, 2008

(Act No. 18 of 2008)

AN ACT

[10<sup>th</sup> May, 2008]

*to give effect to the financial proposals of the Central Government for the financial year 2008-09.*

BE it enacted by Parliament in the Fifty-ninth Year of the Republic of India as follows :-

#### CHAPTER I

##### PRELIMINARY

- (1) This Act may be called the Finance Act, 2008.
- (2) Save as otherwise provided in this Act, sections 2 to 67 shall be deemed to have come into force on the 1<sup>st</sup> day of April, 2008.

Short title and commencement.

#### CHAPTER II

##### RATES OF INCOME-TAX

- (1) Subject to the provisions of sub-sections (2) and (3), for the assessment year commencing on the 1<sup>st</sup> day of April, 2008, income-tax shall be charged at the rates specified in Part I of the First Schedule and such tax as reduced by the rebate of income-tax calculated under Chapter VIII-A of the Income-tax Act, 1961 (hereinafter referred to as the Income-tax Act)



shall be increased by a surcharge, for purposes of the Union, calculated in each case in the manner provided therein.

(2) In the cases to which Paragraph A of Part I of the First Schedule applies, where the assessee has, in the previous year, any net agricultural income exceeding five thousand rupees, in addition to total income, and the total income exceeds one lakh ten thousand rupees, then,—

(a) the net agricultural income shall be taken into account, in the manner provided in clause (b) [that is to say, as if the net agricultural income were comprised in the total income after the first one lakh ten thousand rupees of the total income but without being liable to tax], only for the purpose of charging income-tax in respect of the total income; and

(b) the income-tax chargeable shall be calculated as follows:—

(i) the total income and the net agricultural income shall be aggregated and the amount of income-tax shall be determined in respect of the aggregate income at the rates specified in the said Paragraph A, as if such aggregate income were the total income;

(ii) the net agricultural income shall be increased by a sum of one lakh ten thousand rupees, and the amount of income-tax shall be determined in respect of the net agricultural income as so increased at the rates specified in the said Paragraph A, as if the net agricultural income as so increased were the total income;

(iii) the amount of income-tax determined in accordance with sub-clause (i) shall be reduced by the amount of income-tax determined in accordance with sub-clause (ii) and the sum so arrived at shall be the income-tax in respect of the total income:

Provided that in the case of every woman, resident in India and below the age of sixty-five years at any time during the previous year, referred to in item (II) of Paragraph A of Part I of the First Schedule, the provisions of this sub-section shall have effect as if for the words "one lakh ten thousand rupees", the words "one lakh forty-five thousand rupees" had been substituted:

Provided further that in the case of every individual, being a resident in India, who is of the age of sixty-five years or more at any time during the previous year, referred to in item (III) of Paragraph A of Part I of the First Schedule, the provisions of this sub-section shall have effect as if for the words "one lakh ten thousand rupees", the words "one lakh ninety-five thousand rupees" had been substituted:

Provided also that the amount of income-tax so arrived at, as reduced by the amount of rebate of income-tax calculated under Chapter VIII-A of the Income-tax Act, shall be increased by a surcharge, for purposes of the Union, calculated in each case in the manner provided in that Paragraph and the sum so arrived at shall be the income-tax in respect of the total income.

(3) In cases to which the provisions of Chapter XII or Chapter XII-A or Chapter XII-H or section 115JB or sub-section (1A) of section 161 or section 164 or section 164A or section 167B of the Income-tax Act apply, the tax chargeable shall be determined as provided in that Chapter or that section, and with reference to the rates imposed by sub-section (1) or the rates as specified in that Chapter or section, as the case may be:

Provided that the amount of income-tax computed in accordance with the provisions of section 111A or section 112 shall be increased by a surcharge, for purposes of the Union, as provided in Paragraph A, B, C, D or E, as the case may be, of Part I of the First Schedule:

Provided further that in respect of any income chargeable to tax under sections 115A, 115AB, 115AC, 115ACA, 115AD, 115B, 115BB, 115BBA, 115BBC, 115E and 115JB or fringe

benefits chargeable to tax under section 115WA of the Income-tax Act, the amount of income-tax computed under this sub-section shall be increased by a surcharge, for purposes of the Union, calculated,—

(a) in the case of every individual, Hindu undivided family, association of persons and body of individuals, whether incorporated or not, at the rate of ten per cent. of such income-tax where the total income exceeds ten lakh rupees;

(b) in the case of every artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the Income-tax Act, at the rate of ten per cent. of such income-tax;

(c) in the case of every firm and domestic company, at the rate of ten per cent. of such income-tax where the total income exceeds one crore rupees;

(d) in the case of every company, other than a domestic company, at the rate of two and one-half per cent. of such income-tax where the total income exceeds one crore rupees;

Provided also that in the case of every company having total income chargeable to tax under section 115JB of the Income-tax Act, and such income exceeds one crore rupees, the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees:

Provided also that in respect of any fringe benefits chargeable to tax under section 115WA of the Income-tax Act, income-tax computed under this sub-section shall be increased by a surcharge, for purposes of the Union, calculated,—

(a) in the case of every association of persons and body of individuals, whether incorporated or not, at the rate of ten per cent. of income-tax where the fringe benefits exceed ten lakh rupees;

(b) in the case of every firm, artificial juridical person referred to in sub-clause (v) of clause (a) of section 115W of the Income-tax Act, and domestic company, at the rate of ten per cent. of such income-tax;

(c) in the case of every company, other than a domestic company, at the rate of two and one-half per cent. of such income-tax.

(4) In cases in which tax has to be charged and paid under section 115-O or sub-section (2) of section 115R of the Income-tax Act, the tax shall be charged and paid at the rates as specified in those sections and shall be increased by a surcharge, for purposes of the Union, calculated at the rate of ten per cent. of such tax.

(5) In cases in which tax has to be deducted under sections 193, 194, 194A, 194B, 194BB, 194D and 195 of the Income-tax Act, at the rates in force, the deductions shall be made at the rates specified in Part II of the First Schedule and shall be increased by a surcharge, for purposes of the Union, calculated in each case, in the manner provided therein.

(6) In cases in which tax has to be deducted under sections 194C, 194E, 194EE, 194F, 194G, 194H, 194-I, 194J, 194LA, 196B, 196C and 196D of the Income-tax Act, the deductions shall be made at the rates specified in those sections and shall be increased by a surcharge, for purposes of the Union, calculated,—

(a) in the case of every individual, Hindu undivided family, association of persons and body of individuals, whether incorporated or not, at the rate of ten per cent. of such tax where the income or the aggregate of such incomes paid or likely to be paid and subject to the deduction exceeds ten lakh rupees;

(b) in the case of every artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the Income-tax Act, at the rate of ten per cent. of such tax;

(c) in the case of every firm and domestic company, at the rate of ten per cent. of such tax, where the income or the aggregate of such incomes paid or likely to be paid and subject to the deduction exceeds one crore rupees;

(d) in the case of every company, other than a domestic company, at the rate of two and one-half per cent. of such tax, where the income or the aggregate of such incomes paid or likely to be paid and subject to the deduction exceeds one crore rupees.

(7) In cases in which tax has to be collected under the proviso to section 194B of the Income-tax Act, the collection shall be made at the rates specified in Part II of the First Schedule, and shall be increased by a surcharge, for purposes of the Union, calculated in the manner provided therein.

(8) In cases in which tax has to be collected under section 206C of the Income-tax Act, the collection shall be made at the rates specified in that section and shall be increased by a surcharge, for purposes of the Union, calculated,—

(a) in the case of every individual, Hindu undivided family, association of persons and body of individuals, whether incorporated or not, at the rate of ten per cent. of such tax, where the amount or the aggregate of such amounts collected and subject to the collection exceeds ten lakh rupees;

(b) in the case of every artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the Income-tax Act, at the rate of ten per cent. of such tax;

(c) in the case of every firm and domestic company at the rate of ten per cent. of such tax, where the amount or the aggregate of such amounts collected and subject to the collection exceeds one crore rupees;

(d) in the case of every company, other than a domestic company, at the rate of two and one-half per cent. of such tax, where the amount or the aggregate of such amounts collected and subject to the collection exceeds one crore rupees.

(9) Subject to the provisions of sub-section (10), in cases in which income-tax has to be charged under sub-section (4) of section 172 or sub-section (2) of section 174 or section 174A or section 175 or sub-section (2) of section 176 of the Income-tax Act or deducted from, or paid on, income chargeable under the head "Salaries" under section 192 of the said Act or in which the "advance tax" payable under Chapter XVII-C of the said Act has to be computed at the rate or rates in force, such income-tax or, as the case may be, "advance tax" shall be so charged, deducted or computed at the rate or rates specified in Part III of the First Schedule and such tax shall be increased by a surcharge, for purposes of the Union, calculated in each case in the manner provided therein:

Provided that in cases to which the provisions of Chapter XII or Chapter XII-A or Chapter XII-H or section 115JB or sub-section (1A) of section 161 or section 164 or section 164A or section 167B of the Income-tax Act apply, "advance tax" shall be computed with reference to the rates imposed by this sub-section or the rates as specified in that Chapter or section, as the case may be:

Provided further that the amount of "advance tax" computed in accordance with the provisions of section 111A or section 112 of the Income-tax Act shall be increased by a surcharge, for purposes of the Union, as provided in Paragraph A, B, C, D or E, as the case may be, of Part III of the First Schedule:

Provided also that in respect of any income chargeable to tax under sections 115A, 115AB, 115AC, 115ACA, 115AD, 115B, 115BB, 115BBA, 115BBC, 115E and 115JB of the Income-tax Act, "advance tax" computed under the first proviso shall be increased by a surcharge, for purposes of the Union, calculated,—

(a) in the case of every individual, Hindu undivided family, association of persons and body of individuals, whether incorporated or not, at the rate of ten per cent. of "advance tax", where the total income exceeds ten lakh rupees;

(b) in the case of every artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the Income-tax Act, at the rate of ten per cent. of such "advance tax";

(c) in the case of every firm and domestic company, at the rate of ten per cent. of such "advance tax", where the total income exceeds one crore rupees;

(d) in the case of every company, other than a domestic company, at the rate of two and one-half per cent. of such "advance tax", where the total income exceeds one crore rupees;

Provided also that in the case of every company having total income chargeable to tax under section 115JB of the Income-tax Act, and such income exceeds one crore rupees, the total amount payable as "advance tax" and surcharge on such income shall not exceed the total amount payable as "advance tax" on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees:

Provided also that in respect of any fringe benefits chargeable to tax under section 115WA of the Income-tax Act, "advance tax" computed under the first proviso shall be increased by a surcharge, for purposes of the Union, calculated,—

(a) in the case of every association of persons and body of individuals, whether incorporated or not, at the rate of ten per cent. of "advance tax", where the fringe benefits exceed ten lakh rupees;

(b) in the case of every firm, artificial juridical person referred to in sub-clause (v) of clause (a) of section 115W of the Income-tax Act, and domestic company, at the rate of ten per cent. of such "advance tax";

(c) in the case of every company, other than a domestic company, at the rate of two and one-half per cent. of such "advance-tax".

(10) In cases to which Paragraph A of Part III of the First Schedule applies, where the assessee has, in the previous year or, if by virtue of any provision of the Income-tax Act, income-tax is to be charged in respect of the income of a period other than the previous year, in such other period, any net agricultural income exceeding five thousand rupees, in addition to total income and the total income exceeds one lakh fifty thousand rupees, then, in charging income-tax under sub-section (2) of section 174 or section 174A or section 175 or sub-section (2) of section 176 of the said Act or in computing the "advance tax" payable under Chapter XVII-C of the said Act, at the rate or rates in force,—

(a) the net agricultural income shall be taken into account, in the manner provided in clause (b) [that is to say, as if the net agricultural income were comprised in the total income after the first one lakh fifty thousand rupees of the total income but without being liable to tax], only for the purpose of charging or computing such income-tax or, as the case may be, "advance tax" in respect of the total income; and

(b) such income-tax or, as the case may be, "advance tax" shall be so charged or computed as follows:—

(i) the total income and the net agricultural income shall be aggregated and the amount of income-tax or "advance tax" shall be determined in respect of the aggregate income at the rates specified in the said Paragraph A, as if such aggregate income were the total income;

(ii) the net agricultural income shall be increased by a sum of one lakh fifty thousand rupees, and the amount of income-tax or "advance tax" shall be determined in respect of the net agricultural income as so increased at the rates specified in the said Paragraph A, as if the net agricultural income were the total income;



(iii) the amount of income-tax or "advance tax" determined in accordance with sub-clause (i) shall be reduced by the amount of income-tax or, as the case may be, "advance tax" determined in accordance with sub-clause (ii) and the sum so arrived at shall be the income-tax or, as the case may be, "advance tax" in respect of the total income:

Provided that in the case of every woman, resident in India and below the age of sixty-five years at any time during the previous year, referred to in item (II) of Paragraph A of Part III of the First Schedule, the provisions of this sub-section shall have effect as if for the words "one lakh fifty thousand rupees", the words "one lakh eighty thousand rupees" had been substituted:

Provided further that in the case of every individual, being a resident in India, who is of the age of sixty-five years or more at any time during the previous year, referred to in item (III) of Paragraph A of Part III of the First Schedule, the provisions of this sub-section shall have effect as if for the words "one lakh fifty thousand rupees", the words "two lakh twenty-five thousand rupees" had been substituted:

Provided also that the amount of income-tax or "advance tax" so arrived at shall be increased by a surcharge, for purposes of the Union, calculated, in each case, in the manner provided therein.

(11) The amount of income-tax as specified in sub-sections (1) to (10) and as increased by a surcharge, for purposes of the Union, calculated in the manner provided therein, shall be further increased by an additional surcharge, for purposes of the Union, to be called the "Education Cess on income-tax", calculated at the rate of two per cent. of such income-tax and surcharge so as to fulfil the commitment of the Government to provide and finance universalised quality basic education.

(12) The amount of income-tax as specified in sub-sections (1) to (10) and as increased by a surcharge, for purposes of the Union, calculated in the manner provided therein, shall also be increased by an additional surcharge, for purposes of the Union, to be called the "Secondary and Higher Education Cess on income-tax", calculated at the rate of one per cent. of such income-tax and surcharge so as to fulfil the commitment of the Government to provide and finance secondary and higher education.

(13) For the purposes of this section and the First Schedule,—

(a) "domestic company" means an Indian company or any other company which, in respect of its income liable to income-tax under the Income-tax Act, for the assessment year commencing on the 1st day of April, 2008, has made the prescribed arrangements for the declaration and payment within India of the dividends, including dividends on preference shares, payable out of such income;

(b) "insurance commission" means any remuneration or reward, whether by way of commission or otherwise, for soliciting or procuring insurance business, including business relating to the continuance, renewal or revival of policies of insurance;

(c) "net agricultural income", in relation to a person, means the total amount of agricultural income, from whatever source derived, of that person computed in accordance with the rules contained in Part IV of the First Schedule;

(d) all other words and expressions used in this section and the First Schedule but not defined in this sub-section and defined in the Income-tax Act shall have the meanings respectively assigned to them in that Act.

## CHAPTER III

## DIRECT TAXES

## Income-tax

3. In section 2 of the Income-tax Act,—

Amendment of  
section 2.

(a) in clause (1A), after *Explanation 2*, the following *Explanation* shall be inserted with effect from the 1st day of April, 2009, namely:—

“*Explanation 3*.—For the purposes of this clause, any income derived from saplings or seedlings grown in a nursery shall be deemed to be agricultural income;”

(b) for clause (15), the following clause shall be substituted with effect from the 1st day of April, 2009, namely:—

“(15) “charitable purpose” includes relief of the poor, education, medical relief, and the advancement of any other object of general public utility:

Provided that the advancement of any other object of general public utility shall not be a charitable purpose, if it involves the carrying on of any activity in the nature of trade, commerce or business, or any activity of rendering any service in relation to any trade, commerce or business, for a cess or fee or any other consideration, irrespective of the nature of use or application, or retention, of the income from such activity;”

4. In section 10 of the Income-tax Act,—

Amendment of  
section 10.

26 of 1997.

(a) after clause (26AA) as omitted by the Finance Act, 1997, the following clause shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1990, namely:—

“(26AAA) in case of an individual, being a Sikkimese, any income which accrues or arises to him—

(a) from any source in the State of Sikkim; or

(b) by way of dividend or interest on securities:

Provided that nothing contained in this clause shall apply to a Sikkimese woman who, on or after the 1st day of April, 2008, marries an individual who is not a Sikkimese.

*Explanation*.—For the purposes of this clause, “Sikkimese” shall mean—

(i) an individual, whose name is recorded in the register maintained under the Sikkim Subjects Regulation, 1961 read with the Sikkim Subject Rules, 1961 (hereinafter referred to as the “Register of Sikkim Subjects”), immediately before the 26th day of April, 1975; or

(ii) an individual, whose name is included in the Register of Sikkim Subjects by virtue of the Government of India Order No. 26030/36/90-I.C.I., dated the 7th August, 1990 and Order of even number dated the 8th April, 1991; or

(iii) any other individual, whose name does not appear in the Register of Sikkim Subjects, but it is established beyond doubt that the name of such individual's father or husband or paternal grandfather or brother from the same father has been recorded in that register;”

(b) after clause (26AAA) as so inserted, the following clause shall be inserted with effect from the 1st day of April, 2009, namely:—

“(26AAB) any income of an agricultural produce market committee or board constituted under any law for the time being in force for the purpose of regulating the marketing of agricultural produce;”

(c) in clause (29A), after sub-clause (g), the following sub-clause shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 2002, namely:—

“(h) the Coir Board established under section 4 of the Coir Industry Act, 1953;”;

45 of 1953.

(d) after clause (42), the following clause shall be inserted, namely:—

“(43) any amount received by an individual as a loan, either in lump sum or in instalment, in a transaction of reverse mortgage referred to in clause (xvi) of section 47.”.

Amendment  
of section 10A.

5. In section 10A of the Income-tax Act, in sub-section (I), in the fourth proviso, for the figures “2010”, the figures “2011” shall be substituted.

Amendment  
of section  
10B.

6. In section 10B of the Income-tax Act, in sub-section (I), in the third proviso, for the figures “2010”, the figures “2011” shall be substituted.

Amendment  
of section 35.

7. In section 35 of the Income-tax Act, with effect from the 1st day of April, 2009,—

(a) in sub-section (I), after clause (ii), the following clause shall be inserted, namely:

“(iia) an amount equal to one and one-fourth times of any sum paid to a company to be used by it for scientific research:

Provided that such company—

(A) is registered in India,

(B) has as its main object the scientific research and development,

(C) is, for the purposes of this clause, for the time being approved by the prescribed authority in the prescribed manner, and

(D) fulfils such other conditions as may be prescribed;”;

(b) in sub-section (2AB), after clause (5), the following clause shall be inserted, namely:—

“(6) No deduction shall be allowed to a company approved under sub-clause (C) of clause (iia) of sub-section (I) in respect of the expenditure referred to in clause (I) which is incurred after the 31st day of March, 2008.”.

Amendment of  
section 35D.

8.—In section 35D of the Income-tax Act, with effect from the 1st day of April, 2009,—

(a) for the words “industrial undertaking”, wherever they occur, the word “undertaking” shall be substituted;

(b) for the words “industrial unit”, wherever they occur, the word “unit” shall be substituted.

Amendment  
of section 36.

9. In section 36 of the Income-tax Act, in sub-section (I), after clause (xiv), the following clauses shall be inserted with effect from the 1st day of April, 2009, namely:—

“(xv) an amount equal to the securities transaction tax paid by the assessee in respect of the taxable securities transactions entered into in the course of his business during the previous year, if the income arising from such taxable securities transactions is included in the income computed under the head “Profits and gains of business or profession”.



23 of 2004.

*Explanation.*—For the purposes of this clause, the expressions “securities transaction tax” and “taxable securities transaction” shall have the meanings respectively assigned to them under Chapter VII of the Finance (No. 2) Act, 2004;

(xvi) an amount equal to the commodities transaction tax paid by the assessee in respect of the taxable commodities transactions entered into in the course of his business during the previous year, if the income arising from such taxable commodities transactions is included in the income computed under the head “Profits and gains of business or profession”.

*Explanation.*—For the purposes of this clause, the expressions “commodities transaction tax” and “taxable commodities transaction” shall have the meanings respectively assigned to them under Chapter VII of the Finance Act, 2008.

10. In section 40 of the Income-tax Act, in clause (a),—

Amendment  
of section 40.

(a) in sub-clause (ia), with effect from the 1st day of April, 2005,—

(i) for the words, brackets and figures “has not been paid during the previous year, or in the subsequent year before the expiry of the time prescribed under sub-section (1) of section 200”, the following words, brackets, letters and figures shall be substituted and shall be deemed to have been substituted, namely:—

“has not been paid,—

(A) in a case where the tax was deductible and was so deducted during the last month of the previous year, on or before the due date specified in sub-section (1) of section 139; or

(B) in any other case, on or before the last day of the previous year.”;

(ii) for the proviso, the following proviso shall be substituted and shall be deemed to have been substituted, namely:—

“Provided that where in respect of any such sum, tax has been deducted in any subsequent year, or has been deducted—

(A) during the last month of the previous year but paid after the said due date; or

(B) during any other month of the previous year but paid after the end of the said previous year,

such sum shall be allowed as a deduction in computing the income of the previous year in which such tax has been paid.”;

(b) sub-clause (ib) shall be omitted with effect from the 1st day of April, 2009.

11. In section 40A of the Income-tax Act, for sub-section (3), the following sub-sections shall be substituted with effect from the 1st day of April, 2009, namely:—

Amendment of  
section 40A.

“(3) Where the assessee incurs any expenditure in respect of which a payment or aggregate of payments made to a person in a day, otherwise than by an account payee cheque drawn on a bank or account payee bank draft, exceeds twenty thousand rupees, no deduction shall be allowed in respect of such expenditure.

(3A) Where an allowance has been made in the assessment for any year in respect of any liability incurred by the assessee for any expenditure and subsequently during any previous year (hereinafter referred to as subsequent year) the assessee makes payment in respect thereof, otherwise than by an account payee cheque drawn on a bank or account payee bank draft, the payment so made shall be deemed to be the profits and gains of business or profession and accordingly chargeable to income-tax as income of the subsequent year if the payment or aggregate of payments made to a person in a day, exceeds twenty thousand rupees:



Provided that no disallowance shall be made and no payment shall be deemed to be the profits and gains of business or profession under sub-section (3) and this sub-section where a payment or aggregate of payments made to a person in a day, otherwise than by an account payee cheque drawn on a bank or account payee bank draft, exceeds twenty thousand rupees, in such cases and under such circumstances as may be prescribed, having regard to the nature and extent of banking facilities available, considerations of business expediency and other relevant factors.”

Amendment of  
section 43.

12. In section 43 of the Income-tax Act, in clause (6), after *Explanation 5*, the following *Explanation* shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 2003, namely:—

“*Explanation 6.*—Where an assessee was not required to compute his total income for the purposes of this Act for any previous year or years preceding the previous year relevant to the assessment year under consideration,—

(a) the actual cost of an asset shall be adjusted by the amount attributable to the revaluation of such asset, if any, in the books of account;

(b) the total amount of depreciation on such asset, provided in the books of account of the assessee in respect of such previous year or years preceding the previous year relevant to the assessment year under consideration shall be deemed to be the depreciation actually allowed under this Act for the purposes of this clause; and

(c) the depreciation actually allowed under clause (b) shall be adjusted by the amount of depreciation attributable to such revaluation of the asset.”

Amendment of  
section 44AB.

13. In section 44AB of the Income-tax Act, in the *Explanation*, in clause (ii), for the figures, letters and words “31st day of October”, the figures, letters and words “30th day of September” shall be substituted.

Amendment of  
section 47.

14. In section 47 of the Income-tax Act,—

(a) after clause (x), the following clause shall be inserted, namely:—

“(xa) any transfer by way of conversion of bonds referred to in clause (a) of sub-section (1) of section 115AC into shares or debentures of any company;”;

(b) after clause (xv), the following clause shall be inserted, namely:—

“(xvi) any transfer of a capital asset in a transaction of reverse mortgage under a scheme made and notified by the Central Government.”

Amendment of  
section 49.

15. In section 49 of the Income-tax Act, for sub-section (2A), the following sub-section shall be substituted, namely:—

“(2A) Where the capital asset, being a share or debenture of a company, became the property of the assessee in consideration of a transfer referred to in clause (x) or clause (xa) of section 47, the cost of acquisition of the asset to the assessee shall be deemed to be that part of the cost of debenture, debenture-stock, bond or deposit certificate in relation to which such asset is acquired by the assessee.”

Amendment of  
section 80C.

16. In section 80C of the Income-tax Act,—

(a) in sub-section (2), after clause (xxii), the following clauses shall be inserted, namely:—

“(xxiii) in an account under the Senior Citizens Savings Scheme Rules, 2004;

(xxiv) as five year time deposit in an account under the Post Office Time Deposit Rules, 1981.”;

(b) after sub-section (6), the following sub-section shall be inserted, namely:—

“(6A) If any amount, including interest accrued thereon, is withdrawn by the assessee from his account referred to in clause (xxiii) or clause (xxiv) of sub-section (2), before the expiry of the period of five years from the date of its deposit, the amount so withdrawn shall be deemed to be the income of the assessee of the previous year in which the amount is withdrawn and shall be liable to tax in the assessment year relevant to such previous year:

Provided that the amount liable to tax shall not include the following amounts, namely:—

(i) any amount of interest, relating to deposits referred to in clause (xxiii) or clause (xxiv) of sub-section (2), which has been included in the total income of the assessee of the previous year or years preceding such previous year; and

(ii) any amount received by the nominee or legal heir of the assessee, on the death of such assessee, other than interest, if any, accrued thereon, which was not included in the total income of the assessee for the previous year or years preceding such previous year.”

17. For section 80D of the Income-tax Act, the following section shall be substituted with effect from the 1st day of April, 2009,—

‘80D. (1) In computing the total income of an assessee, being an individual or a Hindu undivided family, there shall be deducted such sum, as specified in sub-section (2) or sub-section (3), payment of which is made by any mode, other than cash, in the previous year out of his income chargeable to tax.

Substitution of new section for section 80D.

Deduction in respect of health insurance premia.

(2) Where the assessee is an individual, the sum referred to in sub-section (1) shall be the aggregate of the following, namely:—

(a) the whole of the amount paid to effect or to keep in force an insurance on the health of the assessee or his family as does not exceed in the aggregate fifteen thousand rupees; and

(b) the whole of the amount paid to effect or to keep in force an insurance on the health of the parent or parents of the assessee as does not exceed in the aggregate fifteen thousand rupees.

*Explanation.*—For the purposes of clause (a), “family” means the spouse and dependant children of the assessee.

(3) Where the assessee is a Hindu undivided family, the sum referred to in sub-section (1) shall be the whole of the amount paid to effect or to keep in force an insurance on the health of any member of that Hindu undivided family as does not exceed in the aggregate fifteen thousand rupees.

(4) Where the sum specified in clause (a) or clause (b) of sub-section (2) or in sub-section (3) is paid to effect or keep in force an insurance on the health of any person specified therein, and who is a senior citizen, the provisions of this section shall have effect as if for the words “fifteen thousand rupees”, the words “twenty thousand rupees” had been substituted.

*Explanation.*—For the purposes of this sub-section, “senior citizen” means an individual resident in India who is of the age of sixty-five years or more at any time during the relevant previous year.

(5) The insurance referred to in this section shall be in accordance with a scheme made in this behalf by—

(a) the General Insurance Corporation of India formed under section 9 of the General Insurance Business (Nationalisation) Act, 1972 and approved by the Central Government in this behalf; or 57 of 1972.

(b) any other insurer and approved by the Insurance Regulatory and Development Authority established under sub-section (1) of section 3 of the Insurance Regulatory and Development Authority Act, 1999. 41 of 1999.

Amendment  
of section  
80-IB.

**18. In section 80-IB of the Income-tax Act,—**

(a) in sub-section (9), after the second proviso, the following proviso shall be inserted, namely:—

"Provided also that where such undertaking begins refining of mineral oil on or after the 1st day of April, 2009, no deduction under this section shall be allowed in respect of such undertaking unless such undertaking fulfils all the following conditions, namely:—

(i) it is wholly owned by a public sector company or any other company in which a public sector company or companies hold at least forty-nine per cent. of the voting rights;

(ii) it is notified by the Central Government in this behalf on or before the 31st day of May, 2008; and

(iii) it begins refining not later than the 31st day of March, 2012.";

(b) after sub-section (11B), the following sub-section shall be inserted with effect from the 1st day of April, 2009, namely:—

(11C) The amount of deduction in the case of an undertaking deriving profits from the business of operating and maintaining a hospital located anywhere in India, other than the excluded area, shall be hundred per cent. of the profits and gains derived from such business for a period of five consecutive assessment years, beginning with the initial assessment year, if—

(i) the hospital is constructed and has started or starts functioning at any time during the period beginning on the 1st day of April, 2008 and ending on the 31st day of March, 2013;

(ii) the hospital has at least one hundred beds for patients;

(iii) the construction of the hospital is in accordance with the regulations or bye-laws of the local authority; and

(iv) the assessee furnishes along with the return of income, a report of audit in such form and containing such particulars, as may be prescribed, and duly signed and verified by an accountant, as defined in the Explanation to sub-section (2) of section 288, certifying that the deduction has been correctly claimed.

**Explanation.—** For the purposes of this sub-section—

(a) a hospital shall be deemed to have been constructed on the date on which a completion certificate in respect of such construction is issued by the local authority concerned;

(b) "initial assessment year" means the assessment year relevant to the previous year in which the business of the hospital starts functioning;

(c) "excluded area" shall mean an area comprising—

- (i) Greater Mumbai urban agglomeration;
- (ii) Delhi urban agglomeration;
- (iii) Kolkata urban agglomeration;
- (iv) Chennai urban agglomeration;
- (v) Hyderabad urban agglomeration;
- (vi) Bangalore urban agglomeration;
- (vii) Ahmedabad urban agglomeration;
- (viii) District of Faridabad;
- (ix) District of Gurgaon;
- (x) District of Gautam Budh Nagar;
- (xi) District of Ghaziabad;
- (xii) District of Gandhinagar; and
- (xiii) City of Secunderabad;

(d) the area comprising an urban agglomeration shall be the area included in such urban agglomeration on the basis of the 2001 census.

19. In section 80-ID of the Income-tax Act, with effect from the 1st day of April, 2009,—

Amendment of  
section 80-ID.

(a) in sub-section (2), after clause (ii), the following clause shall be inserted, namely:—

"(iii) engaged in the business of hotel located in the specified district having a World Heritage Site, if such hotel is constructed and has started or starts functioning at any time during the period beginning on the 1st day of April, 2008 and ending on the 31st day of March, 2013.";

(b) in sub-section (6), after clause (d), the following shall be inserted, namely:—

(e) "specified district having a World Heritage Site" means districts, specified in column (2) of the Table below, of the States, specified in the corresponding entry in column (3) of the said Table:

Table

S.No.	Name of district	Name of State
(1)	(2)	(3)
1.	Agra	Uttar Pradesh
2.	Jalgaon	Maharashtra
3.	Aurangabad	Maharashtra
4.	Kancheepuram	Tamil Nadu
5.	Puri	Orissa
6.	Bharatpur	Rajasthan
7.	Chhatarpur	Madhya Pradesh
8.	Thanjavur	Tamil Nadu
9.	Bellary	Karnataka
10.	South 24 Parganas (excluding areas falling within the Kolkata urban agglomeration on the basis of the 2001 census)	West Bengal



(1)	(2)	(3)
11.	Chamoli	Uttarakhand
12.	Raisen	Madhya Pradesh
13.	Gaya	Bihar
14.	Bhopal	Madhya Pradesh
15.	Panchmahal	Gujarat
16.	Kamrup	Assam
17.	Goalpara	Assam
18.	Nagaon	Assam
19.	North Goa	Goa
20.	South Goa	Goa
21.	Darjeeling	West Bengal
22.	Nilgiri	Tamil Nadu.

Amendment of  
section 88E.

20. In section 88E of the Income-tax Act, after sub-section (2), the following sub-section shall be inserted, namely:—

“(3) No deduction under this section shall be allowed in, or after, the assessment year beginning on the 1st day of April, 2009.”

Amendment of  
section 111A.

21. In section 111A of the Income-tax Act, in sub-section (1), in clause (i), for the words “ten per cent.”, the words “fifteen per cent.” shall be substituted with effect from the 1st day of April, 2009.

Amendment of  
section 115AD.

22. In section 115AD of the Income-tax Act, in sub-section (1), in the proviso, for the words “ten per cent.”, the words “fifteen per cent.” shall be substituted with effect from the 1st day of April, 2009.

Amendment of  
section 115JB.

23. In section 115JB of the Income-tax Act, after sub-section (2),—

(a) the *Explanation* shall be numbered as *Explanation 1* and in *Explanation 1* as so numbered, after clause (g), for the portion beginning with the words “if any amount referred” and ending with the words “as reduced by—”, the following shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 2001, namely:—

“(h) the amount of deferred tax and the provision therefor, if any amount referred to in clauses (a) to (h) is debited to the profit and loss account, and as reduced by—”;

(b) in *Explanation 1* as so numbered, after clause (vii), the following clause shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 2001, namely:—

“(viii) the amount of deferred tax, if any such amount is credited to the profit and loss account.”;

(c) after *Explanation 1* as so numbered, the following shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 2001, namely:—

“*Explanation 2.*— For the purposes of clause (a) of *Explanation 1*, the amount of income-tax shall include—

(i) any tax on distributed profits under section 115-O or on distributed income under section 115R;

(ii) any interest charged under this Act;

(iii) surcharge, if any, as levied by the Central Acts from time to time;

(iv) Education Cess on income-tax, if any, as levied by the Central Acts from time to time; and

(v) Secondary and Higher Education Cess on income-tax, if any, as levied by the Central Acts from time to time.”

24. In section 115-O of the Income-tax Act, after sub-section (I), the following sub-section shall be inserted, namely:—

Amendment of  
section 115-O.

“(1A) The amount referred to in sub-section (I) shall be reduced by the amount of dividend, if any, received by the domestic company during the financial year, if—

- (a) such dividend is received from its subsidiary;
- (b) the subsidiary has paid tax under this section on such dividend; and
- (c) the domestic company is not a subsidiary of any other company:

Provided that the same amount of dividend shall not be taken into account for reduction more than once.

*Explanation.*—For the purposes of this sub-section, a company shall be a subsidiary of another company, if such other company holds more than half in nominal value of the equity share capital of the company.”

25. In section 115WB of the Income-tax Act,—

Amendment of  
section 115WB.

(a) in sub-section (I), in the *Explanation* to clause (d), in clause (i), for the words “and includes employees’ stock option”, the words “and, where employees’ stock option has been granted under any plan or scheme therefor, includes the securities offered under such plan or scheme” shall be substituted;

(b) in sub-section (2), with effect from the 1st day of April, 2009,—

(I) in clause (B), after sub-clause (ii), the following sub-clause shall be inserted, namely:—

“(iii) any expenditure on or payment through non-transferable pre-paid electronic meal card usable only at eating joints or outlets and which fulfils such other conditions as may be prescribed;”;

(II) in clause (E), for the *Explanation*, the following *Explanation* shall be substituted, namely:—

“*Explanation.*—For the purposes of this clause, any expenditure incurred or payment made to—

- (i) fulfil any statutory obligation; or
- (ii) mitigate occupational hazards; or
- (iii) provide first aid facilities in the hospital or dispensary run by the employer; or
- (iv) provide crèche facility for the children of the employee; or
- (v) sponsor a sportsman, being an employee; or
- (vi) organise sports events for employees,

shall not be considered as expenditure for employees’ welfare;”;

(III) clause (K) shall be omitted.

26. In section 115WC of the Income-tax Act, in sub-section (I), with effect from the 1st day of April, 2009,—

Amendment of  
section 115WC.

(i) in clause (c), for the words, brackets and letters “clauses (A) to (K)”, the words, brackets and letters “clauses (A) to (L)” shall be substituted;

(ii) in clause (d), for the words, brackets and letters “clauses (L) to (P)”, the words, brackets and letters “clauses (M) to (P)” shall be substituted:

27. In section 115WD of the Income-tax Act, in sub-section (I), in the *Explanation*, in clause (a), for the figures, letters and words “31st day of October”, the figures, letters and words “30th day of September” shall be substituted.

Amendment of  
section  
115WD.



Amendment of  
section 115WE.

28. In section 115WE of the Income-tax Act,—

(A) for sub-section (1), the following sub-sections shall be substituted, namely:—

(1) Where a return has been made under section 115WD, such return shall be processed in the following manner, namely:—

(a) the value of fringe benefits shall be computed after making the following adjustments, namely:—

(i) any arithmetical error in the return; or

(ii) an incorrect claim, if such incorrect claim is apparent from any information in the return;

(b) the tax and interest, if any, shall be computed on the basis of the value of fringe benefits computed under clause (a);

(c) the sum payable by, or the amount of refund due to, the assessee shall be determined after adjustment of the tax and interest, if any, computed under clause (b) by any advance tax paid, any tax paid on self-assessment and any amount paid otherwise by way of tax or interest;

(d) an intimation shall be prepared or generated and sent to the assessee specifying the sum determined to be payable by, or the amount of refund due to, the assessee under clause (c); and

(e) the amount of refund due to the assessee in pursuance of the determination under clause (c) shall be granted to the assessee:

Provided that no intimation under this sub-section shall be sent after the expiry of one year from the end of the financial year in which the return is made.

*Explanation.*—For the purposes of this sub-section,—

(a) “an incorrect claim apparent from any information in the return” shall mean a claim, on the basis of an entry, in the return,—

(i) of an item, which is inconsistent with another entry of the same or some other item in such return;

(ii) in respect of which the information required to be furnished to substantiate such entry has not been so furnished under this Act; or

(iii) in respect of a deduction or value of fringe benefits, where such deduction or value exceeds specified statutory limit which may have been expressed as monetary amount or percentage or ratio or fraction;

(b) the acknowledgment of the return shall be deemed to be the intimation in a case where no sum is payable by, or refundable to, the assessee under clause (c), and where no adjustment has been made under clause (a).

(1A) For the purposes of processing of returns under sub-section (1), the Board may make a scheme for centralised processing of returns with a view to expeditiously determining the tax payable by, or the refund due to, the assessee as required under that sub-section.

(1B) Save as otherwise expressly provided, for the purpose of giving effect to the scheme made under sub-section (1A), the Central Government may, by notification in the Official Gazette, direct that any of the provisions of this Act relating to processing of returns shall not apply or shall apply with such exceptions, modifications and adaptations as may be specified in that notification; so, however, that no direction shall be issued after the 31st day of March, 2009.

(1C) Every notification issued under sub-section (1B), along with the scheme made under sub-section (1A), shall, as soon as may be after the notification is issued, be laid before each House of Parliament.”;

(B) in sub-section (2), in the proviso, for the words "twelve months from the end of the month", the words "six months from the end of the financial year" shall be substituted.

29. After section 115WKA of the Income-tax Act, the following section shall be inserted, namely:—

Insertion of  
new section  
115WKB.

"115WKB. (1) Where an employer has paid any fringe benefit tax with respect to allotment or transfer of specified security or sweat equity shares, referred to in clause (d) of sub-section (1) of section 115WB, and has recovered such tax subsequently from an employee, it shall be deemed that the fringe benefit tax so recovered is the tax paid by such employee in relation to the value of the fringe benefit provided to him only to the extent to which the amount thereof relates to the value of the fringe benefit provided to such employee, as determined under clause (ba) of sub-section (1) of section 115WC.

Deemed  
payment of  
tax by  
employee.

(2) Notwithstanding anything contained in any other provisions of this Act, where the fringe benefit tax recovered from the employee is deemed to be the tax paid by such employee under sub-section (1), such employee shall, under this Act, not be entitled to claim—

(i) any refund out of such payment of tax; or

(ii) any credit of such payment of tax against tax liability on other income or against any other tax liability."

30. In section 139 of the Income-tax Act,—

Amendment  
of section  
139.

(a) in sub-section (1), in *Explanation 2*, in clause (a), for the figures, letters and words "31st day of October", the figures, letters and words "30th day of September" shall be substituted;

(b) in sub-section (9), in the *Explanation*, in clause (c), in sub-clause (i), the words, figures and letters "before the 1st day of April, 2008" shall be omitted.

31. In section 142 of the Income-tax Act, in sub-section (2C), in the proviso, for the words "on an application", the words "*suo motu*, or on an application" shall be substituted.

Amendment  
of section 142.

32. In section 143 of the Income-tax Act,—

Amendment  
of section 143.

(a) for sub-section (1), the following sub-sections shall be substituted, namely:—

(1) Where a return has been made under section 139, or in response to a notice under sub-section (1) of section 142, such return shall be processed in the following manner, namely:—

(a) the total income or loss shall be computed after making the following adjustments, namely:—

(i) any arithmetical error in the return; or

(ii) an incorrect claim, if such incorrect claim is apparent from any information in the return;

(b) the tax and interest, if any, shall be computed on the basis of the total income computed under clause (a);

(c) the sum payable by, or the amount of refund due to, the assessee shall be determined after adjustment of the tax and interest, if any, computed under clause (b) by any tax deducted at source, any tax collected at source, any advance tax paid, any relief allowable under an agreement under section 90 or section 90A, or any relief allowable under section 91, any rebate allowable under Part A of Chapter VIII, any tax paid on self-assessment and any amount paid otherwise by way of tax or interest;

(d) an intimation shall be prepared or generated and sent to the assessee specifying the sum determined to be payable by, or the amount of refund due to, the assessee under clause (c); and



(e) the amount of refund due to the assessee in pursuance of the determination under clause (c) shall be granted to the assessee:

Provided that an intimation shall also be sent to the assessee in a case where the loss declared in the return by the assessee is adjusted but no tax or interest is payable by, or no refund is due to, him:

Provided further that no intimation under this sub-section shall be sent after the expiry of one year from the end of the financial year in which the return is made.

*Explanation.*—For the purposes of this sub-section,—

(a) “an incorrect claim apparent from any information in the return” shall mean a claim, on the basis of an entry, in the return,—

(i) of an item, which is inconsistent with another entry of the same or some other item in such return;

(ii) in respect of which the information required to be furnished under this Act to substantiate such entry has not been so furnished; or

(iii) in respect of a deduction, where such deduction exceeds specified statutory limit which may have been expressed as monetary amount or percentage or ratio or fraction;

(b) the acknowledgment of the return shall be deemed to be the intimation in a case where no sum is payable by, or refundable to, the assessee under clause (c), and where no adjustment has been made under clause (a).

(1A) For the purposes of processing of returns under sub-section (1), the Board may make a scheme for centralised processing of returns with a view to expeditiously determining the tax payable by, or the refund due to, the assessee as required under the said sub-section.

(1B) Save as otherwise expressly provided, for the purpose of giving effect to the scheme made under sub-section (1A), the Central Government may, by notification in the Official Gazette, direct that any of the provisions of this Act relating to processing of returns shall not apply or shall apply with such exceptions, modifications and adaptations as may be specified in that notification; so, however, that no direction shall be issued after the 31st day of March, 2009.

(1C) Every notification issued under sub-section (1B), along with the scheme made under sub-section (1A), shall, as soon as may be after the notification is issued, be laid before each House of Parliament;

(b) in sub-section (2), in clause (ii), for the proviso, the following proviso shall be substituted, namely:—

“Provided that no notice under clause (ii) shall be served on the assessee after the expiry of six months from the end of the financial year in which the return is furnished.”

Amendment  
of section  
147.

33. In section 147 of the Income-tax Act, after the proviso, the following proviso shall be inserted, namely:—

“Provided further that the Assessing Officer may assess or reassess such income, other than the income involving matters which are the subject matters of any appeal, reference or revision, which is chargeable to tax and has escaped assessment.”

Amendment  
of section  
151.

34. In section 151 of the Income-tax Act, after sub-section (2), the following *Explanation* shall be inserted and shall be deemed to have been inserted with effect from the

1st day of October, 1998, namely:—

*“Explanation.—For the removal of doubts, it is hereby declared that the Joint Commissioner, the Commissioner or the Chief Commissioner, as the case may be, being satisfied on the reasons recorded by the Assessing Officer about fitness of a case for the issue of notice under section 148, need not issue such notice himself.”*

35. In section 153 of the Income-tax Act, after sub-section (3),—

Amendment  
of section  
153.

(a) the following sub-section shall be inserted and shall be deemed to have been inserted with effect from the 1st day of June, 2003, namely:—

*“(4) Notwithstanding anything contained in the foregoing provisions of this section, sub-section (2) of section 153A and sub-section (1) of section 153B, the order of assessment or reassessment, relating to any assessment year, which stands revived under sub-section (2) of section 153A, shall be made within one year from the end of the month of such revival or within the period specified in this section or sub-section (1) of section 153B, whichever is later.”;*

(b) in *Explanation 1*,—

(i) in the proviso, for the brackets, figures, word and letter “(2) and (2A)”, the brackets, figures, letter and word “(2), (2A) and (4)” shall be substituted and shall be deemed to have been substituted with effect from the 1st day of June, 2003;

(ii) after the proviso, the following proviso shall be inserted and shall be deemed to have been inserted with effect from the 1st day of June, 2007, namely:—

*“Provided further that where a proceeding before the Settlement Commission abates under section 245HA, the period of limitation available under this section to the Assessing Officer for making an order of assessment, reassessment or re-computation, as the case may be, shall, after the exclusion of the period under sub-section (4) of section 245HA, be not less than one year; and where such period of limitation is less than one year, it shall be deemed to have been extended to one year; and for the purposes of determining the period of limitation under sections 149, 153B, 154, 155, 158BE and 231 and for the purposes of payment of interest under section 243 or section 244 or, as the case may be, section 244A, this proviso shall also apply accordingly.”*

36. Section 153A of the Income-tax Act shall be renumbered as sub-section (1) thereof and,—

Amendment  
of section  
153A.

(a) in sub-section (1) as so renumbered, in the second proviso, for the words “referred to in this section”, the words “referred to in this sub-section” shall be substituted and shall be deemed to have been substituted with effect from the 1st day of June, 2003;

(b) after sub-section (1) as so renumbered and before the *Explanation*, the following shall be inserted and shall be deemed to have been inserted with effect from the 1st day of June, 2003, namely:—

*“(2) If any proceeding initiated or any order of assessment or reassessment made under sub-section (1) has been annulled in appeal or any other legal proceeding, then, notwithstanding anything contained in sub-section (1) or section 153, the assessment or reassessment relating to any assessment year which has abated under the second proviso to sub-section (1), shall stand revived with effect from the date of receipt of the order of such annulment by the Commissioner:*

*Provided that such revival shall cease to have effect, if such order of annulment is set aside.”*

37. In section 153B of the Income-tax Act, in sub-section (1), with effect from the 1st day of June, 2003,—

Amendment  
of section  
153B.

(i) in clause (a), for the word, figures and letter “section 153A”, the words, brackets, figures and letter “sub-section (1) of section 153A” shall be substituted and shall be deemed to have been substituted;

(ii) in the *Explanation*,—

(A) after clause (vi) and before the words "shall be excluded", the following clause shall be inserted and shall be deemed to have been inserted, namely:—

"(vii) the period commencing from the date of annulment of a proceeding or order of assessment or reassessment referred to in sub-section (2) of section 153A till the date of the receipt of the order setting aside the order of such annulment, by the Commissioner,";

(B) in the proviso, for the words, brackets and letters "clause (a) or clause (b) of this section", the words, brackets and letters "clause (a) or clause (b) of this sub-section" shall be substituted and shall be deemed to have been substituted.

Amendment of section 153C.

38. In section 153C of the Income-tax Act, in sub-section (1), in the proviso, for the word, figures and letter "section 153A", the words, brackets, figures and letter "sub-section (1) of section 153A" shall be substituted and shall be deemed to have been substituted with effect from the 1st day of June, 2003.

Amendment of section 153D.

39. In section 153D of the Income-tax Act, for the word, figures and letter "section 153A", the words, brackets, figures and letter "sub-section (1) of section 153A" shall be substituted and shall be deemed to have been substituted with effect from the 1st day of June, 2007.

Amendment of section 156.

40. In section 156 of the Income-tax Act, the following proviso shall be inserted, namely:—

"Provided that where any sum is determined to be payable by the assessee under sub-section (1) of section 143, the intimation under that sub-section shall be deemed to be a notice of demand for the purposes of this section."

Amendment of section 191.

41. In section 191 of the Income-tax Act, for the *Explanation*, the following *Explanation* shall be substituted and shall be deemed to have been substituted with effect from the 1st day of June, 2003, namely:—

"*Explanation*.—For the removal of doubts, it is hereby declared that if any person, including the principal officer of a company,—

(a) who is required to deduct any sum in accordance with the provisions of this Act; or

(b) referred to in sub-section (1A) of section 192, being an employer,

does not deduct, or after so deducting fails to pay, or does not pay, the whole or any part of the tax, as required by or under this Act, and where the assessee has also failed to pay such tax directly, then, such person shall, without prejudice to any other consequences which he may incur, be deemed to be an assessee in default within the meaning of sub-section (1) of section 201, in respect of such tax."

Amendment of section 193.

42. In section 193 of the Income-tax Act, in the proviso, after clause (viii) and before the *Explanation*, the following clause shall be inserted with effect from the 1st day of June, 2008, namely:—

"(ix) any interest payable on any security issued by a company, where such security is in dematerialised form and is listed on a recognised stock exchange in India in accordance with the Securities Contracts (Regulation) Act, 1956 and the rules made thereunder." 42 of 1956.

Amendment of section 194C.

43. In section 194C of the Income-tax Act, in sub-section (1), in clause (k), after the words "Hindu undivided family", the words "or an association of persons or a body of individuals, whether incorporated or not, other than those falling under any of the preceding clauses" shall be inserted with effect from the 1st day of June, 2008:

44. In section 195 of the Income-tax Act, after sub-section (5), the following sub-section shall be inserted, namely:—

Amendment of section 195.

“(6) The person referred to in sub-section (1) shall furnish the information relating to payment of any sum in such form and manner as may be prescribed by the Board.”

45. For section 199 of the Income-tax Act, the following section shall be substituted, namely:—

Substitution of new section for section 199.

“199. (1) Any deduction made in accordance with the foregoing provisions of this Chapter and paid to the Central Government shall be treated as a payment of tax on behalf of the person from whose income the deduction was made, or of the owner of the security, or of the depositor or of the owner of property or of the unit-holder, or of the shareholder, as the case may be.

Credit for tax deducted.

(2) Any sum referred to in sub-section (1A) of section 192 and paid to the Central Government shall be treated as the tax paid on behalf of the person in respect of whose income such payment of tax has been made.

(3) The Board may, for the purposes of giving credit in respect of tax deducted or tax paid in terms of the provisions of this Chapter, make such rules as may be necessary, including the rules for the purposes of giving credit to a person other than those referred to in sub-section (1) and sub-section (2) and also the assessment year for which such credit may be given.”

46. In section 201 of the Income-tax Act, for sub-section (1), the following sub-section shall be substituted and shall be deemed to have been substituted with effect from the 1st day of June, 2002, namely:—

Amendment of section 201.

“(1) Where any person, including the principal officer of a company,—

(a) who is required to deduct any sum in accordance with the provisions of this Act; or

(b) referred to in sub-section (1A) of section 192, being an employer, does not deduct, or does not pay, or after so deducting fails to pay, the whole or any part of the tax, as required by or under this Act, then, such person, shall, without prejudice to any other consequences which he may incur, be deemed to be an assessee in default in respect of such tax:

Provided that no penalty shall be charged under section 221 from such person, unless the Assessing Officer is satisfied that such person, without good and sufficient reasons, has failed to deduct and pay such tax.”

47. In section 203 of the Income-tax Act, in sub-section (3), for the figures, letters and words “1st day of April, 2008”, the figures, letters and words “1st day of April, 2010” shall be substituted.

Amendment of section 203.

48. In section 206C of the Income-tax Act,—

(a) for sub-section (4), the following sub-section shall be substituted, namely:—

Amendment of section 206C.

“(4) Any amount collected in accordance with the provisions of this section and paid to the credit of the Central Government shall be deemed to be a payment of tax on behalf of the person from whom the amount has been collected and credit shall be given to such person for the amount so collected in a particular assessment year in accordance with the rules as may be prescribed by the Board from time to time.”

(b) in sub-section (5), in the first proviso, for the figures, letters and words “1st day of April, 2008”, the figures, letters and words “1st day of April, 2010” shall be substituted.



Amendment  
of section  
251.

49. In section 251 of the Income-tax Act, in sub-section (1), after clause (a), the following clause shall be inserted, namely:—

“(aa) in an appeal against the order of assessment in respect of which the proceeding before the Settlement Commission abates under section 245HA, he may, after taking into consideration all the material and other information produced by the assessee before, or the results of the inquiry held or evidence recorded by, the Settlement Commission, in the course of the proceeding before it and such other material as may be brought on his record, confirm, reduce, enhance or annul the assessment;”

Amendment  
of section  
254.

50. In section 254 of the Income-tax Act, in sub-section (2A), for the third proviso, the following proviso shall be substituted with effect from the 1st day of October, 2008, namely:—

“Provided also that if such appeal is not so disposed of within the period allowed under the first proviso or the period or periods extended or allowed under the second proviso, which shall not, in any case, exceed three hundred and sixty-five days, the order of stay shall stand vacated after the expiry of such period or periods, even if the delay in disposing of the appeal is not attributable to the assessee.”

Insertion, of  
new section  
268A.

51. After section 268 of the Income-tax Act, the following section shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1999, namely:—

“268A. (1) The Board may, from time to time, issue orders, instructions or directions to other income-tax authorities, fixing such monetary limits as it may deem fit, for the purpose of regulating filing of appeal or application for reference by any income-tax authority under the provisions of this Chapter.

(2) Where, in pursuance of the orders, instructions or directions issued under sub-section (1), an income-tax authority has not filed any appeal or application for reference on any issue in the case of an assessee for any assessment year, it shall not preclude such authority from filing an appeal or application for reference on the same issue in the case of—

(a) the same assessee for any other assessment year; or

(b) any other assessee for the same or any other assessment year.

(3) Notwithstanding that no appeal or application for reference has been filed by an income-tax authority pursuant to the orders or instructions or directions issued under sub-section (1), it shall not be lawful for an assessee, being a party in any appeal or reference, to contend that the income-tax authority has acquiesced in the decision on the disputed issue by not filing an appeal or application for reference in any case.

(4) The Appellate Tribunal or Court, hearing such appeal or reference, shall have regard to the orders, instructions or directions issued under sub-section (1) and the circumstances under which such appeal or application for reference was filed or not filed in respect of any case.

(5) Every order, instruction or direction which has been issued by the Board fixing monetary limits for filing an appeal or application for reference shall be deemed to have been issued under sub-section (1) and the provisions of sub-sections (2), (3) and (4) shall apply accordingly.”

Amendment  
of section 271.

52. In section 271 of the Income-tax Act, after sub-section (1A), the following sub-section shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1989, namely:—

“(1B) Where any amount is added or disallowed in computing the total income or loss of an assessee in any order of assessment or reassessment and the said order contains a direction for initiation of penalty proceedings under clause (c) of sub-section (1), such an order of assessment or reassessment shall be deemed to constitute satisfaction of the Assessing Officer for initiation of the penalty proceedings under the said clause (c).”

53. After section 273A of the Income-tax Act, the following section shall be inserted, namely:—

Insertion of new section 273AA.

"273AA. (1) A person may make an application to the Commissioner for granting immunity from penalty, if—

Power of Commissioner to grant immunity from penalty.

(a) he has made an application for settlement under section 245C and the proceedings for settlement have abated under section 245HA; and

(b) the penalty proceedings have been initiated under this Act.

(2) The application to the Commissioner under sub-section (1) shall not be made after the imposition of penalty after abatement.

(3) The Commissioner may, subject to such conditions as he may think fit to impose, grant to the person immunity from the imposition of any penalty under this Act, if he is satisfied that the person has, after the abatement, co-operated with the income-tax authority in the proceedings before him and has made a full and true disclosure of his income and the manner in which such income has been derived.

(4) The immunity granted to a person under sub-section (3) shall stand withdrawn, if such person fails to comply with any condition subject to which the immunity was granted and thereupon the provisions of this Act shall apply as if such immunity had not been granted.

(5) The immunity granted to a person under sub-section (3) may, at any time, be withdrawn by the Commissioner, if he is satisfied that such person had, in the course of any proceedings, after abatement, concealed any particulars material to the assessment from the income-tax authority or had given false evidence, and thereupon such person shall become liable to the imposition of any penalty under this Act to which such person would have been liable, had not such immunity been granted."

54. After section 278AA of the Income-tax Act, the following section shall be inserted, namely:—

Insertion of new section 278AB.

"278AB. (1) A person may make an application to the Commissioner for granting immunity from prosecution, if he has made an application for settlement under section 245C and the proceedings for settlement have abated under section 245HA.

Power of Commissioner to grant immunity from prosecution.

(2) The application to the Commissioner under sub-section (1) shall not be made after institution of the prosecution proceedings after abatement.

(3) The Commissioner may, subject to such conditions as he may think fit to impose, grant to the person immunity from prosecution for any offence under this Act, if he is satisfied that the person has, after the abatement, co-operated with the income-tax authority in the proceedings before him and has made a full and true disclosure of his income and the manner in which such income has been derived:

Provided that where the application for settlement under section 245C had been made before the 1st day of June, 2007, the Commissioner may grant immunity from prosecution for any offence under this Act or under the Indian Penal Code or under any other Central Act for the time being in force.

(4) The immunity granted to a person under sub-section (3) shall stand withdrawn, if such person fails to comply with any condition subject to which the immunity was granted and thereupon the provisions of this Act shall apply as if such immunity had not been granted.

(5) The immunity granted to a person under sub-section (3) may, at any time, be withdrawn by the Commissioner, if he is satisfied that such person had, in the course of any proceedings, after abatement, concealed any particulars material to the assessment from the income-tax authority or had given false evidence, and thereupon such person may be tried for the offence with respect to which the immunity was granted or for any other offence of which he appears to have been guilty in connection with the proceedings."

55. After section 282 of the Income-tax Act, the following section shall be inserted with effect from the 1st day of June, 2008, namely:—

Insertion of new section 282A.

"282A. (1) Where this Act requires a notice or other document to be issued by any income-tax authority, such notice or other document shall be signed in manuscript by that authority.

Authentication of notices and other documents.

(2) Every notice or other document to be issued, served or given for the purposes of this Act by any income-tax authority, shall be deemed to be authenticated if the name and office of a designated income-tax authority is printed, stamped or otherwise written thereon.

(3) For the purposes of this section, a designated income-tax authority shall mean any income-tax authority authorised by the Board to issue, serve or give such notice or other document after authentication in the manner as provided in sub-section (2)."

Insertion of  
new section  
292BB.

Notice  
deemed to be  
valid in  
certain  
circumstances.

56. After section 292B of the Income-tax Act, the following section shall be inserted, namely:—

"292BB. Where an assessee has appeared in any proceeding or co-operated in any inquiry relating to an assessment or reassessment, it shall be deemed that any notice under any provision of this Act, which is required to be served upon him, has been duly served upon him in time in accordance with the provisions of this Act and such assessee shall be precluded from taking any objection in any proceeding or inquiry under this Act that the notice was—

- (a) not served upon him; or
- (b) not served upon him in time; or
- (c) served upon him in an improper manner:

Provided that nothing contained in this section shall apply where the assessee has raised such objection before the completion of such assessment or reassessment."

Amendment  
of section  
292C.

57. Section 292C of the Income-tax Act shall be renumbered as sub-section (1) thereof and—

(a) in sub-section (1) as so renumbered, after the words and figures "search under section 132", the words, figures and letter "or survey under section 133A" shall be inserted and shall be deemed to have been inserted with effect from the 1st day of June, 2002;

(b) after sub-section (1) as so renumbered, the following sub-section shall be inserted and shall be deemed to have been inserted with effect from the 1st day of October, 1975, namely:—

"(2) Where any books of account, other documents or assets have been delivered to the requisitioning officer in accordance with the provisions of section 132A, then, the provisions of sub-section (1) shall apply as if such books of account, other documents or assets which had been taken into custody from the person referred to in clause (a) or clause (b) or clause (c), as the case may be, of sub-section (1) of section 132A, had been found in the possession or control of that person in the course of a search under section 132."

Amendment of  
section 295.

58. In section 295 of the Income-tax Act, in sub-section (2), after clause (f), the following clause shall be inserted, namely:—

"(fa) the form and manner in which the information relating to payment of any sum may be furnished under sub-section (6) of section 195;"

Amendment  
of Fourth  
Schedule.

59. In the Fourth Schedule to the Income-tax Act, in Part A, in rule 3, in sub-rule (1), in the first proviso, for the figures, letters and words "31st day of March, 2008", the figures, letters and words "31st day of March, 2009" shall be substituted.

#### Wealth-tax

Amendment  
of section 17.

60. In section 17 of the Wealth-tax Act,—

(a) in sub-section (1), after the second proviso, the following proviso shall be inserted, namely:—

"Provided also that the Assessing Officer may assess or reassess such net wealth, other than the net wealth which is the subject-matter of any appeal, reference or revision, which is chargeable to tax and has escaped assessment;"

(b) in sub-section (1B), after clause (b), the following *Explanation* shall be inserted and shall be deemed to have been inserted with effect from the 1st day of October, 1998, namely:—

*“Explanation.*—For the removal of doubts, it is hereby declared that the Joint Commissioner, the Commissioner or the Chief Commissioner, as the case may be, being satisfied on the reasons recorded by the Assessing Officer about fitness of a case for the issue of notice, need not issue such notice himself.”

61. In section 17A of the Wealth-tax Act, after sub-section (4), in *Explanation 1*, after the proviso, the following proviso shall be inserted and shall be deemed to have been inserted with effect from the 1st day of June, 2007, namely:—

Amendment  
of section  
17A.

“Provided further that where a proceeding before the Settlement Commission abates under section 22HA, the period of limitation referred to in this section available to the Assessing Officer for making an order of assessment or reassessment, as the case may be, shall, after the exclusion of the period under sub-section (4) of section 22HA, be not less than one year; and where such period of limitation is less than one year, it shall be deemed to have been extended to one year.”

62. In section 18 of the Wealth-tax Act, after sub-section (1), the following sub-section shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1989, namely:—

Amendment  
of section 18.

“(1A) Where any amount is added or disallowed in computing the net wealth of an assessee in any order of assessment or reassessment and the said order contains a direction for initiation of penalty proceedings under clause (c) of sub-section (1), such an order of assessment or reassessment shall be deemed to constitute satisfaction of the Assessing Officer for initiation of the penalty proceedings under the said clause (c).”

63. After section 18B of the Wealth-tax Act, the following section shall be inserted, namely:—

Insertion of new  
section 18BA.

“18BA. (1) A person may make an application to the Commissioner for granting immunity from penalty, if—

Power of  
Commissioner  
to grant  
immunity  
from penalty.

(a) he has made an application for settlement under section 22C and the proceedings for settlement have abated under section 22HA; and

(b) the penalty proceedings have been initiated under this Act.

(2) The application to the Commissioner under sub-section (1) shall not be made after the imposition of penalty after abatement.

(3) The Commissioner may, subject to such conditions as he may think fit to impose, grant to the person immunity from the imposition of any penalty under this Act, if he is satisfied that the person has, after the abatement, co-operated with the wealth-tax authority in the proceedings before him and has made a full and true disclosure of his net wealth and the manner in which such net wealth has been derived.

(4) The immunity granted to a person under sub-section (3) shall stand withdrawn, if such person fails to comply with any condition subject to which the immunity was granted and thereupon the provisions of this Act shall apply as if such immunity had not been granted.

(5) The immunity granted to a person under sub-section (3) may, at any time, be withdrawn by the Commissioner, if he is satisfied that such person had, in the course of any proceedings, after abatement, concealed any particulars, material to the assessment, from the wealth-tax authority or had given false evidence, and thereupon such person shall become liable to the imposition of any penalty under this Act to which such person would have been liable, had not such immunity been granted.”

64. In section 23A of the Wealth-tax Act, after sub-section (9), the following sub-section shall be inserted, namely:—

Amendment of  
section 23A.

“(9A) In disposing of an appeal against the order of assessment in respect of which the proceeding before the Settlement Commission abates under section 22HA, he may, after taking into consideration all the material and other information produced



by the assessee before, or the results of the inquiry held or evidence recorded by, the Settlement Commission, in the course of the proceedings before it and such other material as may be brought on his record, confirm, reduce, enhance or annul the assessment.”.

Insertion of new section 35GA.

65. After section 35G of the Wealth-tax Act, the following section shall be inserted, namely:—

Power of Commissioner to grant immunity from prosecution.

“35GA. (1) A person may make an application to the Commissioner for granting immunity from prosecution, if he has made an application for settlement under section 22C and the proceedings for settlement have abated under section 22HA.

(2) The application to the Commissioner under sub-section (1) shall not be made after institution of the prosecution proceedings after abatement.

(3) The Commissioner may, subject to such conditions as he may think fit to impose, grant to the person immunity from prosecution for any offence under this Act, if he is satisfied that the person has, after the abatement, co-operated with the wealth-tax authority in the proceedings before him and has made a full and true disclosure of his net wealth and the manner in which such net wealth has been derived:

Provided that where the application for settlement under section 22C had been made before the 1st day of June, 2007, the Commissioner may grant immunity from prosecution for any offence under this Act or under the Indian Penal Code or under any other Central Act for the time being in force.

45 of 1860.

(4) The immunity granted to a person under sub-section (3) shall stand withdrawn, if such person fails to comply with any condition subject to which the immunity was granted and thereupon the provisions of this Act shall apply as if such immunity had not been granted.

(5) The immunity granted to a person under sub-section (3) may, at any time, be withdrawn by the Commissioner, if he is satisfied that such person had, in the course of any proceedings, after abatement, concealed any particulars, material to the assessment, from the wealth-tax authority or had given false evidence, and thereupon such person may be tried for the offence with respect to which the immunity was granted or for any other offence of which he appears to have been guilty in connection with the proceedings.”.

Insertion of new section 42.

66. After section 41 of the Wealth-tax Act, the following section shall be inserted, namely:—

Notice deemed to be valid in certain circumstances.

“42. Where an assessee has appeared in any proceeding or co-operated in any inquiry relating to an assessment or reassessment; it shall be deemed that any notice under any provision of this Act, which is required to be served upon him, has been duly served upon him in time in accordance with the provisions of this Act and such assessee shall be precluded from taking any objection in any proceeding or inquiry under this Act that the notice was—

(a) not served upon him; or

(b) not served upon him in time; or

(c) served upon him in an improper manner:

Provided that nothing contained in this section shall apply where the assessee has raised such objection before the completion of such assessment or reassessment.”.

Amendment of section 42D.

67. Section 42D of the Wealth-tax Act shall be renumbered as sub-section (1) thereof and after sub-section (1) as so renumbered, the following sub-section shall be inserted and shall be deemed to have been inserted with effect from the 1st day October, 1975, namely:—

“(2) Where any books of account, other documents or assets have been delivered to the requisitioning officer in accordance with the provisions of section 37B, then, the provisions of sub-section (1) shall apply as if such books of account, other documents or assets which had been taken into custody from the person referred to in clause (a) or clause (b) or clause (c), as the case may be, of sub-section (1) of section 37B, had been found in the possession or control of that person in the course of a search under section 37A.”.

## CHAPTER IV

## INDIRECT TAXES

## Customs

52 of 1962.

68. In section 28B of the Customs Act, 1962 (hereinafter referred to as the Customs Act),—

Amendment  
of section  
28B.

(i) after sub-section (1), the following sub-section shall be inserted, namely:—

“(1A) Every person who has collected any amount in excess of the duty assessed or determined or paid on any goods or has collected any amount as representing duty of customs on any goods which are wholly exempt or are chargeable to *nil* rate of duty from any person in any manner, shall forthwith pay the amount so collected to the credit of the Central Government.”;

(ii) in sub-section (2), for the word, brackets and figure “sub-section (1)”, the words, brackets, figures and letter “sub-section (1) or sub-section (1A), as the case may be,” shall be substituted;

(iii) in sub-section (4),—

(a) for the words, brackets and figures “sub-section (1) or sub-section (3)”, the words, brackets, figures and letter “sub-section (1) or sub-section (1A) or sub-section (3), as the case may be,” shall be substituted;

(b) for the word, brackets and figure “sub-section (1)”, the words, brackets, figures and letter “sub-section (1) and sub-section (1A)” shall be substituted.

69. In section 108 of the Customs Act, in sub-section (1), the words “duly empowered by the Central Government in this behalf,” shall be omitted and shall be deemed to have been omitted with effect from the 13th day of July, 2006.

Amendment  
of section  
108.

70. In section 117 of the Customs Act, for the words “ten thousand rupees”, the words “one lakh rupees” shall be substituted.

Amendment  
of section  
117.

71. In section 129A of the Customs Act, in sub-section (2), the following proviso and *Explanation* shall be inserted at the end, namely:—

Amendment  
of section  
129A.

‘Provided that where the Committee of Commissioners of Customs differs in its opinion regarding the appeal against the order of the Commissioner (Appeals), it shall state the point or points on which it differs and make a reference to the jurisdictional Chief Commissioner of Customs who shall, after considering the facts of the order, if is of the opinion that the order passed by the Commissioner (Appeals) is not legal or proper, direct the proper officer to appeal to the Appellate Tribunal against such order.

*Explanation.*—For the purposes of this sub-section, “jurisdictional Chief Commissioner” means the Chief Commissioner of Customs having jurisdiction over the adjudicating authority in the matter.’

72. In section 129D of the Customs Act,—

Amendment  
of section  
129D.

(i) in sub-section (1), the following proviso shall be inserted at the end, namely:—

“Provided that where the Committee of Chief Commissioners of Customs differs in its opinion as to the legality or propriety of the decision or order of the Commissioner of Customs, it shall state the point or points on which it differs and make a reference to the Board which, after considering the facts of the decision or order passed by the Commissioner of Customs, if is of the opinion that the decision or order passed by the Commissioner of Customs is not legal or proper, may, by order, direct such Commissioner or any other Commissioner to apply to the Appellate Tribunal for the determination of such points arising out of the decision or order, as may be specified in its order.”;

(ii) for sub-section (3), the following sub-section shall be substituted, namely:—

“(3) Every order under sub-section (1) or sub-section (2), as the case may be, shall be made within a period of three months from the date of communication of the decision or order of the adjudicating authority.”.

Insertion of  
new section  
129EE.

73. After section 129E of the Customs Act, the following section shall be inserted, namely:—

Interest on  
delayed refund  
of amount  
deposited  
under the  
proviso to  
section 129E.

“129EE. Where an amount deposited by the appellant in pursuance of an order passed by the Commissioner (Appeals) or the Appellate Tribunal (hereinafter referred to as the appellate authority), under the first proviso to section 129E, is required to be refunded consequent upon the order of the appellate authority and such amount is not refunded within three months from the date of communication of such order to the adjudicating authority, unless the operation of the order of the appellate authority is stayed by a superior court or tribunal, there shall be paid to the appellant interest at the rate specified in section 27A after the expiry of three months from the date of communication of the order of the appellate authority, till the date of refund of such amount.”

Amendment  
of section  
141.

74. Section 141 of the Customs Act shall be numbered as sub-section (1) thereof and, after sub-section (1) as so numbered, the following sub-section shall be inserted, namely:—

“(2) The imported or export goods may be received, stored, delivered, despatched or otherwise handled in a customs area in such manner as may be prescribed and the responsibilities of persons engaged in the aforesaid activities shall be such as may be prescribed.”

Amendment  
of section  
158.

75. In section 158 of the Customs Act, in sub-section (2), for clause (ii), the following clause shall be substituted, namely:—

“(ii) that any person who contravenes any provision of a rule or regulation or abets such contravention or who fails to comply with any provision of a rule or regulation with which it was his duty to comply, shall be liable to a penalty which may extend to fifty thousand rupees.”

Amendment  
of  
notification  
issued under  
sub-section  
(1) of section  
25 of the  
Customs Act,  
1962.

76. In the notification of the Government of India in the Ministry of Finance (Department of Revenue) number G.S.R. 277(E), dated the 1st April, 2003 which was issued in exercise of the powers conferred by sub-section (1) of section 25 of the Customs Act, 1962, the condition No. 7, as inserted *vide* notification of the Government of India in the Ministry of Finance (Department of Revenue) number G.S.R. 673(E), dated the 17th November, 2005 which provides “that the importer shall be entitled to avail of the drawback or CENVAT credit of additional duty leviable under section 3 of the said Customs Tariff Act against the amount debited in the said certificate”, shall be deemed to have, and always to have for all purposes validly, come into force on and from the 4th day of June, 2005 at all material times. 52 of 1962.

*Explanation.*— For the removal of doubts, it is hereby declared that no act or omission on the part of any person shall be punishable as an offence which would not have been so punishable if this section had not come into force.

#### *Customs tariff*

Amendment  
of Act 51 of  
1975.

77. In the Customs Tariff Act, 1975 (hereinafter referred to as the Customs Tariff Act),—

(i) in section 9A, for sub-section (2A), the following sub-section shall be substituted, namely:—

“(2A) Notwithstanding anything contained in sub-section (1) and sub-section (2), a notification issued under sub-section (1) or any anti-dumping duty imposed under sub-section (2), shall not apply to articles imported by a hundred per cent. export-oriented undertaking unless,—

(i) specifically made applicable in such notifications or such impositions, as the case may be; or

(ii) the article imported is either cleared as such into the domestic tariff area or used in the manufacture of any goods that are cleared into the domestic tariff area, and in such cases anti-dumping duty shall be levied on that portion of the article so cleared or so used as was leviable when it was imported into India.

1 of 1944.

*Explanation.*—For the purposes of this sub-section, the expression “hundred per cent. export-oriented undertaking” shall have the meaning assigned to it in *Explanation 2* to sub-section (1) of section 3 of the Central Excise Act, 1944.’;

(ii) the First Schedule shall be amended in the manner specified in the Second Schedule;

(iii) the Second Schedule shall be amended in the manner specified in the Third Schedule.

#### *Excise*

1 of 1944.

78. In section 2 of the Central Excise Act, 1944 (hereinafter referred to as the Central Excise Act), after clause (d), the following *Explanation* shall be inserted, namely:—

Amendment of section 2.

‘*Explanation.*—For the purposes of this clause, “goods” includes any article, material or substance which is capable of being bought and sold for a consideration and such goods shall be deemed to be marketable.’.

79. After section 3 of the Central Excise Act, the following section shall be inserted, namely:—

Insertion of new section 3A.

‘3A. (1) Notwithstanding anything contained in section 3, where the Central Government, having regard to the nature of the process of manufacture or production of excisable goods of any specified description, the extent of evasion of duty in regard to such goods or such other factors as may be relevant, is of the opinion that it is necessary to safeguard the interest of revenue, specify, by notification in the Official Gazette, such goods as notified goods and there shall be levied and collected duty of excise on such goods in accordance with the provisions of this section.

Power of Central Government to charge excise duty on the basis of capacity of production in respect of notified goods.

(2) Where a notification is issued under sub-section (1), the Central Government may, by rules,—

(a) provide the manner for determination of the annual capacity of production of the factory, in which such goods are produced, by an officer not below the rank of Assistant Commissioner of Central Excise and such annual capacity shall be deemed to be the annual production of such goods by such factory; or

(b) (i) specify the factor relevant to the production of such goods and the quantity that is deemed to be produced by use of a unit of such factor; and

(ii) provide for the determination of the annual capacity of production of the factory in which such goods are produced on the basis of such factor by an officer not below the rank of Assistant Commissioner of Central Excise and such annual capacity of production shall be deemed to be the annual production of such goods by such factory.

Provided that where a factory producing notified goods is in operation during a part of the year only, the annual production thereof shall be calculated on proportionate basis of the annual capacity of production:

Provided further that in a case where the factor relevant to the production is altered or modified at any time during the year, the annual production shall be re-determined on a proportionate basis having regard to such alteration or modification.

(3) The duty of excise on notified goods shall be levied, at such rate, on the unit of production or, as the case may be, on such factor relevant to the production, as the Central Government may, by notification in the Official Gazette, specify, and collected in such manner as may be prescribed:

Provided that where a factory producing notified goods did not produce the notified goods during any continuous period of fifteen days or more, the duty calculated on a proportionate basis shall be abated in respect of such period if the manufacturer of such goods fulfils such conditions as may be prescribed.

(4) The provisions of this section shall not apply to goods produced or manufactured, by a hundred per cent. export-oriented undertaking and brought to any other place in India.



*Explanation 1.*—For the removal of doubts, it is hereby clarified that for the purposes of section 3 of the Customs Tariff Act, 1975, the duty of excise leviable on the notified goods shall be deemed to be the duty of excise leviable on such goods under the First Schedule and the Second Schedule to the Central Excise Tariff Act, 1985, read with any notification for the time being in force. 51 of 1975. 5 of 1986.

*Explanation 2.*—For the purposes of this section, the expression “hundred per cent. export-oriented undertaking” shall have the meaning assigned to it in section 3.

Amendment  
of section  
11B.

80. In section 11B of the Central Excise Act,—

(i) in sub-section (1),—

(a) for the words “duty of excise”, wherever they occur, the words “duty of excise and interest, if any, paid on such duty” shall be substituted;

(b) for the word “duty”, wherever it occurs, the words “duty and interest, if any, paid on such duty” shall be substituted;

(ii) in sub-section (2), except in clauses (a) and (c) of the first proviso,—

(a) for the words “duty of excise”, wherever they occur, the words “duty of excise and interest, if any, paid on such duty” shall be substituted;

(b) for the word “duty”, wherever it occurs, the words “duty and interest, if any, paid on such duty” shall be substituted.

Amendment  
of section  
11D.

81. In section 11D of the Central Excise Act,—

(i) after sub-section (1), the following sub-section shall be inserted, namely:—

“(1A) Every person, who has collected any amount in excess of the duty assessed or determined and paid on any excisable goods or has collected any amount as representing duty of excise on any excisable goods which are wholly exempt or are chargeable to *nil* rate of duty from any person in any manner, shall forthwith pay the amount so collected to the credit of the Central Government.”;

(ii) in sub-section (2), for the word, brackets and figure “sub-section (1)”, the words, brackets, figures and letter “sub-section (1) or sub-section (1A), as the case may be,” shall be substituted;

(iii) in sub-section (4),—

(a) for the words, brackets and figures “sub-section (1) or sub-section (3)”, the words, brackets, figures and letter “sub-section (1) or sub-section (1A) or sub-section (3), as the case may be,” shall be substituted;

(b) for the word, brackets and figure “sub-section (1)”, the words, brackets, figures and letter “sub-section (1) and sub-section (1A)” shall be substituted.

Amendment  
of section  
11DD.

82. In section 11DD of the Central Excise Act, in sub-section (1), for the words “buyer of such goods, the person”, the words “buyer of such goods or from any person or where a person has collected any amount as representing duty of excise on any excisable goods which are wholly exempt or are chargeable to *nil* rate of duty, the person” shall be substituted.

Amendment  
of section  
35B.

83. In section 35B of the Central Excise Act, in sub-section (2), the following proviso and *Explanation* shall be inserted at the end, namely:—

“Provided that where the Committee of Commissioners of Central Excise differs in its opinion regarding the appeal against the order of the Commissioner (Appeals), it shall state the point or points on which it differs and make a reference to the jurisdictional Chief Commissioner of Central Excise who shall, after considering the facts of the order, if is of the opinion that the order passed by the Commissioner (Appeals) is not legal or proper, direct any Central Excise Officer to appeal to the Appellate Tribunal against such order.

*Explanation.*—For the purposes of this sub-section, “jurisdictional Chief Commissioner” means the Chief Commissioner of Central Excise having jurisdiction over the adjudicating authority in the matter.<sup>1</sup>

84. In section 35E of the Central Excise Act,—

Amendment  
of section  
35E.

(i) in sub-section (1), the following proviso shall be inserted at the end, namely:—

“Provided that where the Committee of Chief Commissioners of Central Excise differs in its opinion as to the legality or propriety of the decision or order of the Commissioner of Central Excise, it shall state the point or points on which it differs and make a reference to the Board which, after considering the facts of the decision or order, if is of the opinion that the decision or order passed by the Commissioner of Central Excise is not legal or proper, may, by order, direct such Commissioner or any other Commissioner to apply to the Appellate Tribunal for the determination of such points arising out of the decision or order, as may be specified in its order.”;

(ii) for sub-section (3), the following sub-section shall be substituted, namely:—

“(3) Every order under sub-section (1) or sub-section (2), as the case may be, shall be made within a period of three months from the date of communication of the decision or order of the adjudicating authority.”

85. After section 35F of the Central Excise Act, the following section shall be inserted, namely:—

Insertion of  
new section  
35FF.

“35FF. Where an amount deposited by the appellant in pursuance of an order passed by the Commissioner (Appeals) or the Appellate Tribunal (hereinafter referred to as the appellate authority), under the first proviso to section 35F, is required to be refunded consequent upon the order of the appellate authority and such amount is not refunded within three months from the date of communication of such order to the adjudicating authority, unless the operation of the order of the appellate authority is stayed by a superior court or tribunal, there shall be paid to the appellant interest at the rate specified in section 11BB after the expiry of three months from the date of communication of the order of the appellate authority, till the date of refund of such amount.”

Interest on  
delayed refund  
of amount  
deposited  
under the  
proviso to  
section 35F.

86. (1) In the Central Excise Rules, 1944, made by the Central Government in exercise of the powers conferred by section 37 of the Central Excise Act, rule 12, as substituted by rule 2 of the Central Excise (Eleventh Amendment) Rules, 1994 published in the Official Gazette *vide* notification of the Government of India in the Ministry of Finance (Department of Revenue), number G.S.R. 699(E), dated the 22nd September, 1994 shall stand amended and shall be deemed to have been amended retrospectively in the manner as specified in column (2) of the Fourth Schedule on and from the corresponding date specified in column (3) of that Schedule against the rule specified in column (1) of that Schedule.

Amendment  
of Central  
Excise Rules,  
1944.

(2) Notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority, any action taken or anything done or purported to have been taken or done, at any time during the period commencing on and from the 8th day of July, 1999 and ending with the 30th day of June, 2001 under the rule as amended by sub-section (1), shall be deemed to be and always to have been, for all the purposes, as validly and effectively taken or done as if the amendment made by sub-section (1) had been in force at all material times.

(3) Notwithstanding the supersession of the Central Excise Rules, 1944 referred to in sub-section (1), for the purposes of that sub-section, the Central Government shall have and shall be deemed to have the power to make rules with retrospective effect as if the Central Government had the power to make rules under section 37 of the Central Excise Act, retrospectively, at all material times.

*Explanation.*— For the removal of doubts, it is hereby declared that no act or omission on the part of any person shall be punishable as an offence, which would not have been so punishable if this section had not come into force.

Amendment  
of Central  
Excise (No.  
2) Rules,  
2001.

87. (1) In the Central Excise (No. 2) Rules, 2001, made by the Central Government in exercise of the powers conferred by section 37 of the Central Excise Act, rule 18 thereof as published in the Official Gazette *vide* notification of the Government of India in the Ministry of Finance (Department of Revenue), number G.S.R. 444(E), dated the 21st June, 2001 shall stand amended and shall be deemed to have been amended retrospectively in the manner as specified in column (2) of the Fifth Schedule on and from the corresponding date specified in column (3) of that Schedule against the rule specified in column (1) of that Schedule.

(2) Notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority, any action taken or anything done or purported to have been taken or done, at any time during the period commencing on and from the 1st day of July, 2001 and ending with the 28th day of February, 2002 under the rule as amended by sub-section (1), shall be deemed to be and always to have been, for all the purposes, as validly and effectively taken or done as if the amendment made by sub-section (1) had been in force at all material times.

(3) Notwithstanding the supersession of the Central Excise (No. 2) Rules, 2001 referred to in sub-section (1), for the purposes of that sub-section, the Central Government shall have and shall be deemed to have the power to make rules with retrospective effect as if the Central Government had the power to make rules under section 37 of the Central Excise Act, retrospectively, at all material times.

*Explanation.*—For the removal of doubts, it is hereby declared that no act or omission on the part of any person shall be punishable as an offence, which would not have been so punishable if this section had not come into force.

Amendment  
of Central  
Excise Rules,  
2002.

88. (1) In the Central Excise Rules, 2002, made by the Central Government in exercise of the powers conferred by section 37 of the Central Excise Act, rule 18 thereof as published in the Official Gazette *vide* notification of the Government of India in the Ministry of Finance (Department of Revenue), number G.S.R. 143(E), dated the 1st March, 2002 shall stand amended and shall be deemed to have been amended retrospectively in the manner as specified in column (2) of the Sixth Schedule on and from the corresponding date specified in column (3) of that Schedule against the rule specified in column (1) of that Schedule.

(2) Notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority, any action taken or anything done or purported to have been taken or done, at any time during the period commencing on and from the 1st day of March, 2002 and ending with the 7th day of December, 2006 under the rule as amended by sub-section (1), shall be deemed to be and always to have been, for all the purposes, as validly and effectively taken or done as if the amendment made by sub-section (1) had been in force at all material times.

(3) For the purposes of sub-section (1), the Central Government shall have and shall be deemed to have the power to make rules with retrospective effect as if the Central Government had the power to make rules under section 37 of the Central Excise Act, retrospectively, at all material times.

*Explanation.*—For the removal of doubts, it is hereby declared that no act or omission on the part of any person shall be punishable as an offence, which would not have been so punishable if this section had not come into force.

#### *Excise tariff*

Amendment  
of Act 5 of  
1986

89. The First Schedule to the Central Excise Tariff Act, 1985 (hereinafter referred to as the Central Excise Tariff Act) shall be amended in the manner specified in the Seventh Schedule.

## CHAPTER V

## SERVICE TAX

90. In the Finance Act, 1994,—

Amendment  
of Act 32 of  
1994.

(A) in section 65, with effect from such date as the Central Government may, by notification in the Official Gazette, appoint,—

(1) after clause (7a), the following clause shall be inserted, namely:—

“(7b) “associated enterprise” has the meaning assigned to it in section 92A of the Income-tax Act, 1961;”;

(2) in clause (12),—

(a) in sub-clause (a), for item (iv), the following item shall be substituted, namely:—

“(iv) securities and foreign exchange (forex) broking, and purchase or sale of foreign currency, including money changing;”;

(b) for sub-clause (b), the following sub-clause shall be substituted, namely:—

“(b) foreign exchange broking and purchase or sale of foreign currency, including money changing provided by a foreign exchange broker or an authorised dealer in foreign exchange or an authorised money changer, other than those covered under sub-clause (a);”;

(c) after sub-clause (b) as so amended, the following *Explanation* shall be inserted at the end, namely:—

*Explanation.*— For the purposes of this clause, it is hereby declared that “purchase or sale of foreign currency, including money changing” includes purchase or sale of foreign currency, whether or not the consideration for such purchase or sale, as the case may be, is specified separately;”;

(3) in clause (19),—

(a) in sub-clause (ii), the following *Explanation* shall be inserted at the end, namely:—

*Explanation.*— For the removal of doubts, it is hereby declared that for the purposes of this sub-clause, “service in relation to promotion or marketing of service provided by the client” includes any service provided in relation to promotion or marketing of games of chance, organised, conducted or promoted by the client, in whatever form or by whatever name called, whether or not conducted online, including lottery, lotto, bingo;”;

(b) the words “any information technology service and” shall be omitted;

(c) in the *Explanation*, clause (b) shall be omitted;

(4) for clause (23), the following clause shall be substituted, namely:—

“(23) “cargo handling service” means loading, unloading, packing or unpacking of cargo and includes,—

(a) cargo handling services provided for freight in special containers or for non-containerised freight, services provided by a container freight terminal or any other freight terminal, for all modes of transport, and cargo handling service incidental to freight; and



(b) service of packing together with transportation of cargo or goods, with or without one or more of other services like loading, unloading, unpacking,

but does not include, handling of export cargo or passenger baggage or mere transportation of goods;";

(5) in clause (31), for the words "to a client", the words "to any person" shall be substituted;

(6) after clause (53), the following clause shall be inserted, namely:—

'(53a) "information technology software" means any representation of instructions, data, sound or image, including source code and object code, recorded in a machine readable form, and capable of being manipulated or providing interactivity to a user, by means of a computer or an automatic data processing machine or any other device or equipment;";

(7) for clause (57a), the following clause shall be substituted, namely:—

'(57a) "internet telecommunication service" includes,—

(i) internet backbone services, including carrier services of internet traffic by one Internet Service Provider to another Internet Service Provider,

(ii) internet access services, including provision of a direct connection to the internet and space for the customer's web page,

(iii) provision of telecommunication services, including fax, telephony, audio conferencing and video conferencing, over the internet;";

(8) in clause (64), for the *Explanation*, the following *Explanation* shall be substituted, namely:—

*Explanation.*— For the removal of doubts, it is hereby declared that for the purposes of this clause,—

(a) "goods" includes computer software;

(b) "properties" includes information technology software;";

(9) in clause (68), for the words, "to a client", the words "to any other person" shall be substituted;

(10) in clause (75), for the words "to a customer", the words "to any person" shall be substituted;

(11) after clause (86c), the following clause shall be inserted, namely:—

'(86d) "processing and clearinghouse" means any person including the clearing corporation authorised or assigned by a recognised stock exchange, recognised association or a registered association to perform the duties and functions of a clearinghouse in relation to,—

(i) the periodical settlement of contracts for, or relating to, the sale or purchase of securities, goods or forward contracts and differences thereunder;

(ii) the delivery of, and payment for, securities, goods or forward contracts;

(iii) any other matter incidental to, or connected with, securities, goods and forward contracts;”;

(12) in clause (90a), the *Explanation* occurring at the end shall be numbered as *Explanation 1* thereof, and after the *Explanation 1* as so numbered, the following *Explanation* shall be inserted, namely:—

*Explanation 2.*— For the removal of doubts, it is hereby declared that for the purposes of this clause “renting of immovable property” includes allowing or permitting the use of space in an immovable property, irrespective of the transfer of possession or control of the said immovable property;”;

(13) in clause (92), for the words “to a client”, the words “to any person” shall be substituted;

(14) in clause (105),—

(a) in sub-clauses (e), (h), (j), (k), (p), (q), (r), (s), (t), (u), (v), (w), (x), (y), (z), (za), (zc), (zi), (zj), (zu), (zzi) and (zzw), for the words “to a client”, occurring at the beginning, the words “to any person” shall be substituted;

(b) in sub-clauses (f), (l), (zb), (zh), (zm), (zo), (zq), (zt), (zz), (zdd), (zzg), (zzp), (zzv) and (zzx), for the words “to a customer”, occurring at the beginning, the words “to any person” shall be substituted;

(c) for sub-clause (g), the following sub-clause shall be substituted, namely:—

“(g) to any person, by a consulting engineer in relation to advice, consultancy or technical assistance in any manner in one or more disciplines of engineering including the discipline of computer hardware engineering.

*Explanation.*— For the purposes of this sub-clause, it is hereby declared that services provided by a consulting engineer in relation to advice, consultancy or technical assistance in the disciplines of both computer hardware engineering and computer software engineering shall also be classifiable under this sub-clause;”;

(d) in sub-clause (m), for the words “a client” and “the client”, wherever they occur, the words “any person” and “such person” shall respectively be substituted;

(e) for sub-clause (zzk), the following sub-clause shall be substituted, namely:—

“(zzk) to any person, by a foreign exchange broker, including an authorised dealer in foreign exchange or an authorised money changer, other than a banking company or a financial institution including a non-banking financial company or any other body corporate or commercial concern referred to in sub-clause (zm);”;

(f) in sub-clause (zzzu), for the words “internet telephony”, the words “internet telecommunication service” shall be substituted;

(g) after sub-clause (zzzzd), the following sub-clauses shall be inserted, namely:—

“(zzzze) to any person, by any other person in relation to information technology software for use in the course, or furtherance, of business or commerce, including,—

(i) development of information technology software,

(ii) study, analysis, design and programming of information technology software,

(iii) adaptation, upgradation, enhancement, implementation and other similar services related to information technology software,

(iv) providing advice, consultancy and assistance on matters related to information technology software, including conducting feasibility studies on implementation of a system, specifications for a database design, guidance and assistance during the start-up phase of a new system, specifications to secure a database, advice on proprietary information technology software,

(v) acquiring the right to use information technology software for commercial exploitation including right to reproduce, distribute and sell information technology software and right to use software components for the creation of and inclusion in other information technology software products,

(vi) acquiring the right to use information technology software supplied electronically;

(zzzzf) to a policy holder, by an insurer carrying on life insurance business, in relation to management of investment, under unit linked insurance business, commonly known as Unit Linked Insurance Plan (ULIP) scheme.

*Explanation.*— For the purposes of this sub-clause,—

(i) management of segregated fund of unit linked insurance business by the insurer shall be deemed to be the service provided by the insurer to the policy holder in relation to management of investment under unit linked insurance business;

(ii) the gross amount charged by the insurer from the policy holder for the said services provided or to be provided shall be equivalent to the difference between,—

(a) premium paid by the policy holder for the Unit Linked Insurance Plan policy; and

(b) the sum of premium paid for or attributable to risk cover, whether for life, health or other specified purposes, and the amount segregated for actual investment.

*Illustration*

Total premium paid for the Unit Linked Insurance Plan policy = Rs.100

Risk premium = Rs. 10

Amount actually invested = Rs. 85

Gross amount charged for the service provided = Rs. 5  $[100 - \{10 + 85\}]$ ;

(iii) in addition to the amount referred to in clause (ii), the gross amount charged shall include any amount charged subsequently, whether or not periodically, by the insurer from the policy holder in relation to management of investment under unit linked insurance business;

(zzzzg) to any person, by a recognised stock exchange in relation to assisting, regulating or controlling the business of buying, selling or dealing in securities and includes services provided in relation to trading, processing, clearing and settlement of transactions in securities;

(zzzzh) to any person, by a recognised association or a registered association in relation to assisting, regulating or controlling the business of the sale or purchase of any goods or forward contracts and includes services provided in relation to trading, processing, clearing and settlement of transactions in goods or forward contracts;

(zzzzi) to any person, by a processing and clearinghouse in relation to processing, clearing and settlement of transactions in securities, goods or forward contracts including any other matter incidental to, or connected with, such securities, goods and forward contracts;

(zzzzj) to any person, by any other person in relation to supply of tangible goods including machinery, equipment and appliances for use, without transferring right of possession and effective control of such machinery, equipment and appliances;

(15) in clause (106), after the words "goods or material or", the words "information technology software or" shall be inserted;

(16) in clause (108), for the words "process or material", at both the places where they occur, the words "process or material or information technology software" shall be substituted;

(17) in clause (109a), in sub-clause (c), for the words "internet telephony", the words "internet telecommunication service" shall be substituted;

(18) for clause (115), the following clause shall be substituted, namely:—

"(115) "tour operator" means any person engaged in the business of planning, scheduling, organising or arranging tours (which may include arrangements for accommodation, sightseeing or other similar services) by any mode of transport, and includes any person engaged in the business of operating tours in a tourist vehicle or a contract carriage by whatever name called, covered by



a permit, other than a stage carriage permit, granted under the Motor Vehicles Act, 1988 or the rules made thereunder.

59 of 1988.

*Explanation.*— For the purposes of this clause, the expression “tour” does not include a journey organised or arranged for use by an educational body, other than a commercial training or coaching centre, imparting skill or knowledge or lessons on any subject or field;.

(B) in section 66, with effect from such date as the Central Government may, by notification in the Official Gazette, appoint, for the word, brackets and letters “and (zzzzd)”, the brackets, letters and word “(zzzzd), (zzzze), (zzzzf), (zzzzg), (zzzzh), (zzzzi) and (zzzzj)” shall be substituted;

(C) in section 67, in the *Explanation*, in clause (c), for the words “book adjustment.”, the following words shall be substituted, namely:—

‘book adjustment, and any amount credited or debited, as the case may be, to any account, whether called “Suspense account” or by any other name, in the books of account of a person liable to pay service tax, where the transaction of taxable service is with any associated enterprise.’;

(D) after section 70, the following sections shall be inserted, namely:—

“71. (1) Without prejudice to the provisions of section 70, the Board may, by notification in the Official Gazette, frame a Scheme for the purposes of enabling any person or class of persons to prepare and furnish a return under section 70, and authorise a Service Tax Return Preparer to act as such under the Scheme.

(2) A Service Tax Return Preparer shall assist the person or class of persons to prepare and furnish the return in such manner as may be specified in the Scheme framed under this section.

(3) For the purposes of this section,—

(a) “Service Tax Return Preparer” means any individual, who has been authorised to act as a Service Tax Return Preparer under the Scheme framed under this section;

(b) “person or class of persons” means such person, as may be specified in the Scheme, who is required to furnish a return required to be filed under section 70.

(4) The Scheme framed by the Board under this section may provide for the following, namely:—

(a) the manner in which and the period for which the Service Tax Return Preparer shall be authorised under sub-section (1);

(b) the educational and other qualifications to be possessed, and the training and other conditions required to be fulfilled, by a person to act as a Service Tax Return Preparer;

(c) the code of conduct for the Service Tax Return Preparer;

(d) the duties and obligations of the Service Tax Return Preparer;

(e) the circumstances under which the authorisation given to a Service Tax Return Preparer may be withdrawn;

(f) any other matter which is required to be, or may be, specified by the Scheme for the purposes of this section.

Scheme for  
submission of  
returns  
through  
Service Tax  
Preparers.

72. If any person, liable to pay service tax,—

Best judgment  
assessment.

(a) fails to furnish the return under section 70;

(b) having made a return, fails to assess the tax in accordance with the provisions of this Chapter or rules made thereunder,

the Central Excise Officer, may require the person to produce such accounts, documents or other evidence as he may deem necessary and after taking into account all the relevant material which is available or which he has gathered, shall by an order in writing, after giving the person an opportunity of being heard, make the assessment of the value of taxable service to the best of his judgment and determine the sum payable by the assessee or refundable to the assessee on the basis of such assessment.

(E) for section 77, the following section shall be substituted, namely:—

“77. (1) Any person,—

Penalty for  
contravention  
of rules and  
provisions of  
Act for which  
no penalty is  
specified  
elsewhere.

(a) who is liable to pay service tax, or required to take registration, fails to take registration in accordance with the provisions of section 69 or rules made under this Chapter shall be liable to pay a penalty which may extend to five thousand rupees or two hundred rupees for every day during which such failure continues, whichever is higher, starting with the first day after the due date, till the date of actual compliance;

(b) who fails to keep, maintain or retain books of account and other documents as required in accordance with the provisions of this Chapter or the rules made thereunder, shall be liable to a penalty which may extend to five thousand rupees;

(c) who fails to—

(i) furnish information called by an officer in accordance with the provisions of this Chapter or rules made thereunder; or

(ii) produce documents called for by a Central Excise Officer in accordance with the provisions of this Chapter or rules made thereunder; or

(iii) appear before the Central Excise Officer, when issued with a summons for appearance to give evidence or to produce a document in an inquiry,

shall be liable to a penalty which may extend to five thousand rupees or two hundred rupees for every day during which such failure continues, whichever is higher, starting with the first day after the due date, till the date of actual compliance;

(d) who is required to pay tax electronically, through internet banking, fails to pay the tax electronically, shall be liable to a penalty which may extend to five thousand rupees;

(e) who issues invoice in accordance with the provisions of the Act or rules made thereunder, with incorrect or incomplete details or fails to account for an invoice in his books of account, shall be liable to a penalty which may extend to five thousand rupees.

(2) Any person, who contravenes any of the provisions of this Chapter or any rules made thereunder for which no penalty is separately provided in this Chapter, shall be liable to a penalty which may extend to five thousand rupees.”;

(F) in section 78, after the fourth proviso, the following proviso shall be inserted, namely:—

“Provided also that if the penalty is payable under this section, the provisions of section 76 shall not apply.”;

(G) in section 83, after the figures and letter “35F”, the figures and letters “35FF,” shall be inserted;

(H) in section 86,—

(i) in sub-section (2), the following proviso shall be inserted at the end, namely:—

“Provided that where the Committee of Chief Commissioners of Central Excise differs in its opinion against the order of the Commissioner of Central Excise, it shall state the point or points on which it differs and make a reference to the Board which shall, after considering the facts of the order, if it is of the opinion that the order passed by the Commissioner of Central Excise is not legal or proper, direct the Commissioner of Central Excise to appeal to the Appellate Tribunal against the order.”;

(ii) in sub-section (2A), the following proviso and *Explanation* shall be inserted at the end, namely:—

“Provided that where the Committee of Commissioners differs in its opinion against the order of the Commissioner of Central Excise (Appeals), it shall state the point or points on which it differs and make a reference to the jurisdictional Chief Commissioner who shall, after considering the facts of the order, if it is of the opinion that the order passed by the Commissioner of Central Excise (Appeals) is not legal or proper, direct any Central Excise Officer to appeal to the Appellate Tribunal against the order.

*Explanation.*— For the purposes of this sub-section, “jurisdictional Chief Commissioner” means the Chief Commissioner having jurisdiction over the concerned adjudicating authority in the matter.”;

(I) in section 94, in sub-section (4), for the words “Chapter and every notification”, the words and figures “Chapter, Scheme framed under section 71 and every notification” shall be substituted;

(J) in section 95, after sub-section (1D), the following sub-section shall be inserted, namely:—

“(1E) If any difficulty arises in respect of implementing, classifying or assessing the value of any taxable service incorporated in this Chapter by the Finance Act, 2008, the Central Government may, by order published in the Official Gazette, not inconsistent with the provisions of this Chapter, remove the difficulty:

Provided that no such order shall be made after the expiry of a period of one year from the date on which the Finance Bill, 2008 receives the assent of the President.”.

## CHAPTER VI

### SERVICE TAX DISPUTE RESOLUTION SCHEME, 2008

Short title and commencement.

91. (1) This Scheme may be called the Service Tax Dispute Resolution Scheme, 2008.

(2) It shall come into force on the 1st day of July, 2008.

Definitions.

92. In this Scheme, unless the context otherwise requires,—

(a) “Chapter” means Chapter V of the Finance Act, 1994;

32 of 1994.

(b) “designated authority” means an officer not below the rank of Assistant Commissioner of Central Excise as notified by the Commissioner of Central Excise for the purposes of this Scheme;



- (c) "person" means any person against whom any tax arrear is pending;
- (d) "prescribed" means prescribed by rules made under this Scheme;
- (e) "tax arrear" means service tax, cess, interest or penalty due or payable or leviable under the Chapter but not paid as on the 1st day of March, 2008, in respect of which,—
- (i) an order has been passed under the Chapter; or
- (ii) a demand notice or a show cause notice has been issued on or before the 1st day of March, 2008 under the Chapter;
- (f) all other words and expressions used herein and not defined but defined in the Chapter or the rules made thereunder, shall have the meanings respectively assigned to them in the Chapter or the rules made thereunder.

93. This Scheme shall not be applicable to a decision, an order of determination, a demand notice or, as the case may be, show cause notice,—

Applicability of Scheme.

(i) relating to a tax arrear which includes service tax, and such service tax amount is in excess of twenty-five thousand rupees; or

(ii) where such order or notice has been made or issued under section 73A of the Finance Act, 1994.

32 of 1994.

94. Subject to the provisions of this Scheme, where any person makes, on or after the 1st day of July, 2008, but on or before the 30th day of September, 2008, a declaration to the designated authority in accordance with the provisions of section 95 in respect of tax arrear, then notwithstanding anything contained in the Chapter, the amount payable under this Scheme by the declarant shall be determined at the rates specified hereunder, namely:—

Settlement of tax payment.

(a) where the tax arrear has arisen due to determination, assessment or, as the case may be, order of an adjudicating authority,—

(i) such tax arrear includes the amount of service tax not exceeding twenty-five thousand rupees, at the rate of fifty per cent. of service tax amount;

(ii) such tax arrear consists of only interest payable, or penalty levied or both, under the Chapter, at the rate of twenty-five per cent. of such tax arrear:

Provided that, if the amount of penalty levied exceeds the service tax amount to which it relates, service tax amount shall be considered to be the amount of penalty;

(b) where the tax arrear has arisen due to show cause notice or demand notice, as the case may be,—

(i) such tax arrear includes the amount of service tax not exceeding twenty-five thousand rupees, at the rate of fifty per cent. of service tax amount;

(ii) such tax arrear consists of only interest payable, or penalty leviable or both, under the Chapter, at the rate of twenty-five per cent. of the maximum penalty leviable and interest payable:

Provided that if the amount of penalty leviable exceeds the service tax amount to which it relates, service tax amount shall be considered to be the amount of penalty.

95. A declaration under section 94 shall be made to the designated authority and shall be in such form and shall be verified in such manner as may be prescribed.

Particulars to be furnished in declaration.

96. (1) Within fifteen days from the date of receipt of the declaration under section 94, the designated authority shall, by order, determine the amount payable by the declarant in accordance with the provisions of this Scheme:

Time and manner of payment of tax arrear.



Provided that where any material particular furnished in the declaration is found to be false by the designated authority at any stage, it shall be deemed never to have been made and all the pending proceedings under the Chapter shall be deemed to have been revived.

(2) The declarant shall pay, the sum determined by the designated authority within thirty days of the order by the designated authority under sub-section (1) and intimate the fact of such payment to the designated authority along with proof thereof and the designated authority shall thereupon issue a certificate to the declarant in such form as may be prescribed.

(3) Every order passed under sub-section (1), determining the sum payable under this Scheme, shall be conclusive as to the matters stated therein and no matter covered by such order shall be reopened in any other proceeding under the Chapter.

(4) Where the declarant has filed an appeal, reference or a reply to the show cause notice against any order or notice giving rise to the tax arrear before any authority, tribunal or court, then, notwithstanding anything contained in any other provision of the Chapter, such appeal, reference, or reply shall be deemed to have been withdrawn:

Provided that where the declarant has filed a writ petition, appeal or reference before any High Court or the Supreme Court against any order in respect of the tax arrear, the declarant shall file an application before such High Court or the Supreme Court for withdrawing such writ petition, appeal or reference and after withdrawal of such writ petition, appeal or reference with the leave of the Court, furnish proof of such withdrawal along with the intimation referred to in sub-section (2).

Appellate authority not to proceed in certain cases.

97. No appellate authority shall proceed to decide any issue relating to the tax arrear specified in the declaration and in respect of which an order has been made under section 96 by the designated authority.

No refund of amount paid under the Scheme.

98. Any amount paid in pursuance of a declaration made under section 94 shall not be refundable under any circumstances.

Removal of doubts.

99. For the removal of doubts, it is hereby declared that, save as otherwise expressly provided in sub-section (3) of section 96, nothing contained in this Scheme shall be construed as conferring any benefit, concession or immunity on the declarant in any proceedings other than those in relation to which the declaration has been made.

Power to remove difficulties.

100. (1) If any difficulty arises in giving effect to the provisions of this Scheme, the Central Government may, by order, not inconsistent with the provisions of this Scheme, remove the difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the date on which the provisions of this Scheme come into force.

(2) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

Power to make rules.

101. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Scheme.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the form in which a declaration may be made under section 95 and the manner in which such declaration may be verified;

(b) the form of certificate which may be issued under sub-section (2) of section 96;

(c) any other matter which is to be, or may be, prescribed, or in respect of which provision is to be made, by rules.

(3) The Central Government shall cause every rule made under this Scheme to be laid, as soon as may be after it is made, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

## CHAPTER VII

### COMMODITIES TRANSACTION TAX

102. (1) This Chapter extends to the whole of India.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

(3) It shall apply to taxable commodities transactions entered into on or after the commencement of this Chapter.

Extent,  
commencement  
and  
application.

103. In this Chapter, unless the context otherwise requires,—

Definitions.

43 of 1961.

(1) "Appellate Tribunal" means the Appellate Tribunal constituted under section 252 of the Income-tax Act, 1961;

(2) "Assessing Officer" means the Income-tax Officer or Assistant Commissioner of Income-tax or Deputy Commissioner of Income-tax or Joint Commissioner of Income-tax or Additional Commissioner of Income-tax who is authorised by the Board to exercise or perform all or any of the powers and functions conferred on, or assigned to, an Assessing Officer under this Chapter;

(3) "commodities transaction tax" means tax leviable on the taxable commodities transactions under the provisions of this Chapter;

(4) "prescribed" means prescribed by rules made under this Chapter;

(5) "taxable commodities transaction" means a transaction of purchase or sale of option in goods, or option in commodity derivative, or any other commodity derivative, traded in recognised associations;

74 of 1952.  
43 of 1961.

(6) words and expressions used but not defined in this Chapter and defined in the Forward Contracts (Regulations) Act, 1952, the Income-tax Act, 1961, or the rules made thereunder, shall have the meanings respectively assigned to them in those Acts.

104. On and from the date of commencement of this Chapter, there shall be charged a commodities transaction tax in respect of every taxable commodities transaction specified in column (2) of the Table below, at the rates specified in the corresponding entry in column (3) of the said Table, on the value of such transaction and such tax shall be payable by the seller or the purchaser, as the case may be, specified in the corresponding entry in column (4) of the said Table:

Charge of  
commodities  
transaction  
tax.

Table

Sl. No.	Taxable commodities transaction	Rate	Payable by
(1)	(2)	(3)	(4)
1.	Sale of an option in goods or an option in commodity derivative	0.017 per cent.	Seller

(1)	(2)	(3)	(4)
2.	Sale of an option in goods or an option in commodity derivative, where option is exercised	0.125 per cent.	Purchaser
3.	Sale of any other commodity derivative	0.017 per cent.	Seller.

Value of taxable commodities transaction.

105. The value of a taxable commodities transaction specified under column (2) of the Table in section 104 shall, with reference to such transactions—

(a) against serial number 1, be the option premium;

(b) against serial number 2, be the settlement price of the option in goods or option in commodity derivative, as the case may be;

(c) against serial number 3, be the price at which the commodity derivative is sold.

Collection and recovery of commodities transaction tax.

106. (1) Every recognised association (hereinafter in this Chapter referred to as assessee) shall collect the commodities transaction tax from the seller or the purchaser, as the case may be, who enters into a taxable commodities transaction in that recognised association, at the rates specified in section 104.

(2) The commodities transaction tax collected during any calendar month in accordance with the provisions of sub-section (1) shall be paid by every assessee to the credit of the Central Government by the seventh day of the month immediately following the said calendar month.

(3) Any assessee who fails to collect the tax in accordance with the provisions of sub-section (1) shall, notwithstanding such failure, be liable to pay the tax to the credit of the Central Government in accordance with the provisions of sub-section (2).

Furnishing of return.

107. (1) Every assessee shall, within the prescribed time-limit after the end of each financial year, prepare and deliver or cause to be delivered to the Assessing Officer or to any other authority or agency authorised by the Board in this behalf, a return in such form, verified in such manner and setting forth such particulars as may be prescribed, in respect of all taxable commodities transactions entered into during such financial year in that recognised association.

(2) Where any assessee fails to furnish the return under sub-section (1) within the prescribed time-limit, the Assessing Officer may issue a notice to such assessee and serve it upon him, requiring him to furnish the return in the prescribed form and verified in the prescribed manner setting forth such particulars within such time as may be prescribed.

(3) An assessee who has not furnished the return within the time-limit prescribed under sub-section (1) or sub-section (2), or having furnished a return under sub-section (1) or sub-section (2) notices any omission or wrong statement therein, may furnish a return or a revised return, as the case may be, at any time before the assessment is made.

Assessment.

108. (1) For the purposes of making an assessment under this Chapter, the Assessing Officer may serve on any assessee, who has furnished a return under section 107 or upon whom a notice has been served under sub-section (2) of that section, whether a return has been furnished or not, a notice requiring him to produce or cause to be produced on a date to be specified therein such accounts or documents or other evidence as the Assessing Officer may require for the purposes of this Chapter and may, from time to time, serve further notices requiring the production of such further accounts or documents or other evidence as he may require.

(2) The Assessing Officer, after considering such accounts, documents or other evidence, if any, as he has obtained under sub-section (1) and after taking into account any other relevant material which he has gathered, shall, by an order in writing, assess the value of taxable

commodities transactions during the relevant financial year and determine the commodities transaction tax payable or the refund due on the basis of such assessment:

Provided that no assessment shall be made under this sub-section after the expiry of two years from the end of the relevant financial year.

(3) Every assessee, in case any amount is refundable to it on assessment under sub-section (2), shall, within such time as may be prescribed, refund such amount to the seller or the purchaser, as the case may be, from whom such amount was collected.

109. (1) With a view to rectifying any mistake apparent from the record, the Assessing Officer may amend any order passed by him under the provisions of this Chapter within one year from the end of the financial year in which the order sought to be amended was passed. Rectification of mistake.

(2) Where any matter has been considered and decided in any proceeding by way of appeal relating to an order referred to in sub-section (1), the Assessing Officer passing such order may, notwithstanding anything contained in any other law for the time being in force, amend the order under that sub-section in relation to any matter other than the matter which has been so considered and decided.

(3) Subject to the other provisions of this section, the Assessing Officer may make an amendment under sub-section (1), either *suo motu* or on any mistake brought to his notice by the assessee.

(4) An amendment, which has the effect of enhancing an assessment or reducing a refund or otherwise increasing the liability of the assessee, shall not be made under this section unless the Assessing Officer has given notice to the assessee of his intention so to do and has allowed the assessee a reasonable opportunity of being heard.

(5) An order of amendment under this section shall be made by the Assessing Officer in writing.

(6) Subject to the other provisions of this Chapter, where any such amendment has the effect of reducing the assessment, the Assessing Officer shall make the refund, which may be due to such assessee.

(7) Where any such amendment has the effect of enhancing the assessment or reducing the refund already made, the Assessing Officer shall make an order specifying the sum payable by the assessee and the provisions of this Chapter shall apply accordingly.

110. Every assessee, who fails to credit the commodities transaction tax or any part thereof as required under section 106 to the account of the Central Government within the period specified in that section, shall pay simple interest at the rate of one per cent. of such tax for every month or part of a month by which such crediting of the tax or any part thereof is delayed. Interest on delayed payment of commodities transaction tax.

111. Any assessee who—

(a) fails to collect the whole or any part of the commodities transaction tax as required under section 106; or Penalty for failure to collect or pay commodities transaction tax.

(b) having collected the commodities transaction tax, fails to pay such tax to the credit of the Central Government in accordance with the provisions of sub-section (2) of that section,

shall be liable to pay,—

(i) in the case referred to in clause (a), in addition to paying the tax in accordance with the provisions of sub-section (3) of that section, or interest, if any, in accordance with the provisions of section 110, by way of penalty, a sum equal to the amount of commodities transaction tax that he failed to collect; and

(ii) in the case referred to in clause (b), in addition to paying the tax in accordance



with the provisions of sub-section (2) of that section and interest in accordance with the provisions of section 110, by way of penalty, a sum of one thousand rupees for every day during which the failure continues; so, however, that the penalty under this clause shall not exceed the amount of commodities transaction tax that it failed to pay.

Penalty for failure to furnish return.

112. Where an assessee fails to furnish the return within the time-limits prescribed under sub-section (1) or sub-section (2) of section 107, it shall be liable to pay, by way of penalty, a sum of one hundred rupees for each day during which the failure continues.

Penalty for failure to comply with notice.

113. If the Assessing Officer in the course of any proceedings under this Chapter is satisfied that the assessee has failed to comply with a notice under sub-section (1) of section 108, he may direct that such assessee shall pay, by way of penalty, in addition to any commodities transaction tax and interest, if any, payable by him, a sum of ten thousand rupees for each day during which the failure continues.

Penalty not to be imposed in certain cases.

114. (1) Notwithstanding anything contained in section 111 or section 112 or section 113, no penalty shall be imposable for any failure referred to in the said sections, if the assessee proves to the satisfaction of the Assessing Officer that there was reasonable cause for the said failure.

(2) No order imposing a penalty under this Chapter shall be made unless the assessee has been given a reasonable opportunity of being heard.

Application of certain provisions of Income-tax Act.

115. The provisions of sections 120, 131, 133A, 156, 178, 220 to 227, 229, 232, 260A, 261, 262, 265 to 269, 278B, 282 and 288 to 293 of the Income-tax Act, 1961, shall apply, so far as may be, in relation to commodities transaction tax. 43 of 1961.

Appeal to Commissioner of Income-tax (Appeals).

116. (1) An assessee aggrieved by any assessment order made by the Assessing Officer under section 108 or any order under section 109, or denying his liability to be assessed under this Chapter, or by an order imposing penalty under this Chapter, may appeal to the Commissioner of Income-tax (Appeals) within thirty days from the date of receipt of the order of the Assessing Officer.

(2) An appeal under sub-section (1) shall be in such form and shall be verified in such manner as may be prescribed and shall be accompanied by a fee of one thousand rupees.

(3) Where an appeal has been filed under sub-section (1), the provisions of sections 249 to 251 of the Income-tax Act, 1961, shall, as far as may be, apply to such appeal. 43 of 1961.

Appeal to Appellate Tribunal.

117. (1) An assessee aggrieved by an order made by a Commissioner of Income-tax (Appeals) under section 116 may appeal to the Appellate Tribunal against such order.

(2) The Commissioner of Income-tax may, if he objects to any order passed by the Commissioner of Income-tax (Appeals) under section 116, direct the Assessing Officer to appeal to the Appellate Tribunal against such order.

(3) An appeal under sub-section (1) or sub-section (2) shall be filed within sixty days from the date on which the order sought to be appealed against is received by the assessee or by the Commissioner of Income-tax, as the case may be.

(4) An appeal under sub-section (1) or sub-section (2) shall be in such form and verified in such manner as may be prescribed and, in the case of an appeal filed under sub-section (1), shall be accompanied by a fee of one thousand rupees.

(5) Where an appeal has been filed before the Appellate Tribunal under sub-section (1) or sub-section (2), the provisions of sections 253 to 255 of the Income-tax Act, 1961, shall, as far as may be, apply to such appeal. 43 of 1961.

118. (1) If a person makes a false statement in any verification under this Chapter or any rule made thereunder, or delivers an account or statement, which is false, and which he either knows or believes to be false, or does not believe to be true, he shall be punishable with imprisonment for a term which may extend to three years and with fine.

Punishment  
for false  
statement.

2 of 1974

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, an offence punishable under sub-section (1) shall be deemed to be non-cognizable within the meaning of that Code.

119. No prosecution shall be instituted against any person for any offence under section 118 except with the previous sanction of the Chief Commissioner of Income-tax.

Institution of  
prosecution.

120. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Chapter.

Power to  
make rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the time-limits within which and the form and the manner in which the return shall be delivered or caused to be delivered or furnished under section 107; and

(b) the form in which an appeal may be filed and the manner in which it may be verified under sections 116 and 117.

(3) Every rule made under this Chapter shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

121. (1) If any difficulty arises in giving effect to the provisions of this Chapter, the Central Government may, by order published in the Official Gazette, not inconsistent with the provisions of this Chapter, remove the difficulty:

Power to  
remove  
difficulties.

Provided that no such order shall be made after the expiry of a period of two years from the date on which the provisions of this Chapter come into force.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

## CHAPTER VIII

### MISCELLANEOUS

122. The Seventh Schedule to the Finance Act, 2001 shall be amended in the manner specified in the Eighth Schedule.

Amendment  
of Seventh  
Schedule to  
Act 14 of  
2001.

123. In the Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002, in section 13, in sub-section (1), for the words "for a period of five years computed from the appointed day", the words, figures and letters "for the period beginning on the appointed day and ending on the 31st day of March, 2009" shall be substituted and shall be deemed to have been substituted with effect from the 1st day of February, 2008.

Amendment  
of section 13  
of Act 58 of  
2002.

Amendment  
of Act 23 of  
2004.

124. In the Finance (No. 2) Act, 2004, with effect from the 1st day of June, 2008,—

(i) in section 98, in the Table, for serial number 4 and the entries relating thereto, the following serial number and the entries shall respectively be substituted, namely:—

Sl. No.	Taxable securities transaction	Rate	Payable by
(1)	(2)	(3)	(4)
"4.	(a) Sale of an option in securities	0.017 per cent.	Seller
	(b) Sale of an option in securities, where option is exercised	0.125 per cent.	Purchaser
	(c) Sale of a futures in securities	0.017 per cent.	Seller";

(ii) in section 99, for clause (a), the following clause shall be substituted, namely:—

"(a) in the case of a taxable securities transaction relating to an option in securities, shall be—

(i) the option premium, in respect of transaction at item (a) of serial number 4 of the Table in section 98;

(ii) the settlement price, in respect of transaction at item (b) of serial number 4 of the Table in section 98;"

Amendment  
of Act 18 of  
2005.

125. In the Finance Act, 2005,—

(i) in section 95, after sub-section (2), the following sub-section shall be inserted with effect from the 1st day of April, 2009, namely:—

"(3) Notwithstanding anything contained in sub-section (1), no banking cash transaction tax shall be charged in respect of any taxable banking transaction entered into on or after the 1st day of April, 2009.";

(ii) the Seventh Schedule shall be amended in the manner specified in the Ninth Schedule.



THE FIRST SCHEDULE  
(See section 2)

PART I

INCOME-TAX

Paragraph A

(I) In the case of every individual other than the individual referred to in items (II) and (III) of this Paragraph or Hindu undivided family or association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the Income-tax Act, not being a case to which any other Paragraph of this Part applies,—

*Rates of income-tax*

- |  |  |
|--|--|
| (1) where the total income does not exceed Rs. 1,10,000                          | Nil;   |
| (2) where the total income exceeds Rs. 1,10,000 but does not exceed Rs. 1,50,000 | 10 per cent. of the amount by which the total income exceeds Rs. 1,10,000;                 |
| (3) where the total income exceeds Rs. 1,50,000 but does not exceed Rs. 2,50,000 | Rs. 4,000 plus 20 per cent. of the amount by which the total income exceeds Rs. 1,50,000;  |
| (4) where the total income exceeds Rs. 2,50,000                                  | Rs. 24,000 plus 30 per cent. of the amount by which the total income exceeds Rs. 2,50,000. |

(II) In the case of every individual, being a woman resident in India, and below the age of sixty-five years at any time during the previous year,—

*Rates of income-tax*

- |  |  |
|--|--|
| (1) where the total income does not exceed Rs. 1,45,000                          | Nil;   |
| (2) where the total income exceeds Rs. 1,45,000 but does not exceed Rs. 1,50,000 | 10 per cent. of the amount by which the total income exceeds Rs. 1,45,000;                 |
| (3) where the total income exceeds Rs. 1,50,000 but does not exceed Rs. 2,50,000 | Rs. 500 plus 20 per cent. of the amount by which the total income exceeds Rs. 1,50,000;    |
| (4) where the total income exceeds Rs. 2,50,000                                  | Rs. 20,500 plus 30 per cent. of the amount by which the total income exceeds Rs. 2,50,000. |

(III) In the case of every individual, being a resident in India, who is of the age of sixty-five years or more at any time during the previous year,—

*Rates of income-tax*

- |  |  |
|--|--|
| (1) where the total income does not exceed Rs. 1,95,000                          | Nil;   |
| (2) where the total income exceeds Rs. 1,95,000 but does not exceed Rs. 2,50,000 | 20 per cent. of the amount by which the total income exceeds Rs. 1,95,000;                 |
| (3) where the total income exceeds Rs. 2,50,000                                  | Rs. 11,000 plus 30 per cent. of the amount by which the total income exceeds Rs. 2,50,000. |

*Surcharge on income-tax*

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph, or in section 111A or section 112, shall,—

(i) in the case of every individual or Hindu undivided family or association of persons or body of individuals having a total income exceeding ten lakh rupees, be reduced by the amount of rebate of income-tax calculated under



Chapter VIII-A, and the income-tax as so reduced, be increased by a surcharge for purposes of the Union calculated at the rate of ten per cent. of such income-tax;

(ii) in the case of every person, other than those mentioned in item (i), be increased by a surcharge for purposes of the Union calculated at the rate of ten per cent. of such income-tax:

Provided that in case of persons mentioned in item (i) above having a total income exceeding ten lakh rupees, the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax on a total income of ten lakh rupees by more than the amount of income that exceeds ten lakh rupees.

#### Paragraph B

In the case of every co-operative society,—

##### Rates of income-tax

- |   |   |
|---|---|
| (1) where the total income does not exceed Rs.10,000                        | 10 per cent. of the total income;   |
| (2) where the total income exceeds Rs.10,000 but does not exceed Rs. 20,000 | Rs.1,000 plus 20 per cent. of the amount by which the total income exceeds Rs.10,000;   |
| (3) where the total income exceeds Rs. 20,000                               | Rs. 3,000 plus 30 per cent. of the amount by which the total income exceeds Rs. 20,000. |

#### Paragraph C

In the case of every firm,—

##### Rate of income-tax

On the whole of the total income 30 per cent.

##### Surcharge on income-tax

The amount of income-tax computed at the rate hereinbefore specified, or in section 111A or section 112, shall, in the case of every firm having a total income exceeding one crore rupees, be increased by a surcharge for purposes of the Union calculated at the rate of ten per cent. of such income-tax:

Provided that in the case of every firm having a total income exceeding one crore rupees, the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees.

#### Paragraph D

In the case of every local authority,—

##### Rate of income-tax

On the whole of the total income 30 per cent.

#### Paragraph E

In the case of a company,—

##### Rates of income-tax

I. In the case of a domestic company 30 per cent. of the total income;

II. In the case of a company other than a domestic company—

(i) on so much of the total income as consists of,—

(a) royalties received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 31st day of March, 1961 but before the 1st day of April, 1976; or

(b) fees for rendering technical services received from Government or an Indian concern in pursuance of an agreement made by it with

the Government or the Indian concern after the  
29th day of February, 1964 but before the  
1st day of April, 1976,

and where such agreement has, in either case, been approved 50 per cent.;  
by the Central Government.

(ii) on the balance, if any, of the total income 40 per cent.

#### *Surcharge on income-tax*

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph, or in section 111A or section 112, shall, in the case of every company, be increased by a surcharge for purposes of the Union calculated,—

(i) in the case of every domestic company having a total income exceeding one crore rupees, at the rate of ten per cent. of such income-tax;

(ii) in the case of every company other than a domestic company having a total income exceeding one crore rupees, at the rate of two and one-half per cent.:

Provided that in the case of every company having a total income exceeding one crore rupees, the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees.

## PART II

### RATES FOR DEDUCTION OF TAX AT SOURCE IN CERTAIN CASES

In every case in which under the provisions of sections 193, 194, 194A, 194B, 194BB, 194D and 195 of the Income-tax Act, tax is to be deducted at the rates in force, deduction shall be made from the income subject to the deduction at the following rates:—

	<i>Rate of income-tax</i>
1. In the case of a person other than a company—	
(a) where the person is resident in India—	
(i) on income by way of interest other than "Interest on securities"	10 per cent.;
(ii) on income by way of winnings from lotteries, crossword puzzles, card games and other games of any sort	30 per cent.;
(iii) on income by way of winnings from horse races	30 per cent.;
(iv) on income by way of insurance commission	10 per cent.;
(v) on income by way of interest payable on—	10 per cent.;
(A) any debentures or securities for money issued by or on behalf of any local authority or a corporation established by a Central, State or Provincial Act;	
(B) any debentures issued by a company where such debentures are listed on a recognised stock exchange in India in accordance with the Securities Contracts (Regulation) Act, 1956 (42 of 1956) and any rules made thereunder;	
(C) any security of the Central or State Government	
(vi) on any other income	20 per cent.;
(b) where the person is not resident in India—	
(i) in the case of a non-resident Indian—	
(A) on any investment income	20 per cent.;
(B) on income by way of long-term capital gains referred to in section 115E	10 per cent.;
(C) on income by way of short-term capital gains referred to in section 111A	15 per cent.;

	Rate of income-tax
(D) on other income by way of long-term capital gains [not being long-term capital gains referred to in clauses (33), (36) and (38) of section 10]	20 per cent.;
(E) on income by way of interest payable by Government or an Indian concern on moneys borrowed or debt incurred by Government or the Indian concern in foreign currency	20 per cent.;
(F) on income by way of royalty payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern where such royalty is in consideration for the transfer of all or any rights (including the granting of a licence) in respect of copyright in any book on a subject referred to in the first proviso to sub-section (1A) of section 115A of the Income-tax Act, to the Indian concern, or in respect of any computer software referred to in the second proviso to sub-section (1A) of section 115A of the Income-tax Act, to a person resident in India—	
(I) where the agreement is made on or after the 1st day of June, 1997 but before the 1st day of June, 2005	20 per cent.;
(II) where the agreement is made on or after the 1st day of June, 2005	10 per cent.;
(G) on income by way of royalty [not being royalty of the nature referred to in sub-item (b)(i)(F)] payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern and where such agreement is with an Indian concern, the agreement is approved by the Central Government or where it relates to a matter included in the industrial policy, for the time being in force, of the Government of India, the agreement is in accordance with that policy—	
(I) where the agreement is made on or after the 1st day of June, 1997 but before the 1st day of June, 2005	20 per cent.;
(II) where the agreement is made on or after the 1st day of June, 2005	10 per cent.;
(H) on income by way of fees for technical services payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern and where such agreement is with an Indian concern, the agreement is approved by the Central Government or where it relates to a matter included in the industrial policy, for the time being in force, of the Government of India, the agreement is in accordance with that policy—	
(I) where the agreement is made on or after the 1st day of June, 1997 but before the 1st day of June, 2005	20 per cent.;
(II) where the agreement is made on or after the 1st day of June, 2005	10 per cent.;
(I) on income by way of winnings from lotteries, crossword puzzles, card games and other games of any sort	30 per cent.;
(J) on income by way of winnings from horse races	30 per cent.;
(K) on the whole of the other income	30 per cent.;
(ii) in the case of any other person—	
(A) on income by way of interest payable by Government or an Indian concern on moneys borrowed or debt incurred by Government or the Indian concern in foreign currency	20 per cent.;
(B) on income by way of royalty payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern where such royalty is in consideration for the transfer of all or any rights (including the granting of a licence) in respect of copyright in any book on a subject referred to in the first proviso to sub-section (1A) of section	

*Rate of income-tax*

115A of the Income-tax Act, to the Indian concern, or in respect of any computer software referred to in the second proviso to sub-section (1A) of section 115A of the Income-tax Act, to a person resident in India—

(I) where the agreement is made on or after the 1st day of June, 1997 but before the 1st day of June, 2005 20 per cent.;

(II) where the agreement is made on or after the 1st day of June, 2005 10 per cent.;

(C) on income by way of royalty [not being royalty of the nature referred to in sub-item (b)(ii)(B)] payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern and where such agreement is with an Indian concern, the agreement is approved by the Central Government or where it relates to a matter included in the industrial policy, for the time being in force, of the Government of India, the agreement is in accordance with that policy—

(I) where the agreement is made on or after the 1st day of June, 1997 but before the 1st day of June, 2005 20 per cent.;

(II) where the agreement is made on or after the 1st day of June, 2005 10 per cent.;

(D) on income by way of fees for technical services payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern and where such agreement is with an Indian concern, the agreement is approved by the Central Government or where it relates to a matter included in the industrial policy, for the time being in force, of the Government of India, the agreement is in accordance with that policy—

(I) where the agreement is made on or after the 1st day of June, 1997 but before the 1st day of June, 2005 20 per cent.;

(II) where the agreement is made on or after the 1st day of June, 2005 10 per cent.;

(E) on income by way of winnings from lotteries, crossword puzzles, card games and other games of any sort 30 per cent.;

(F) on income by way of winnings from horse races 30 per cent.;

(G) on income by way of short-term capital gains referred to in section 111A 15 per cent.;

(H) on income by way of long-term capital gains [not being long-term capital gains referred to in clauses (33), (36) and (38) of section 10] 20 per cent.;

(I) on the whole of the other income 30 per cent.;

2. In the case of a company—

(a) where the company is a domestic company—

(i) on income by way of interest other than "Interest on securities" 20 per cent.;

(ii) on income by way of winnings from lotteries, crossword puzzles, card games and other games of any sort 30 per cent.;

(iii) on income by way of winnings from horse races 30 per cent.;

(iv) on any other income 20 per cent.;

(b) where the company is not a domestic company—

(i) on income by way of winnings from lotteries, crossword puzzles, card games and other games of any sort 30 per cent.;

(ii) on income by way of winnings from horse races 30 per cent.;

(iii) on income by way of interest payable by Government or an Indian concern on moneys borrowed or debt incurred by Government or the Indian concern in foreign currency 20 per cent.;



*Rate of income-tax*

(iv) on income by way of royalty payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 31st day of March, 1976 where such royalty is in consideration for the transfer of all or any rights (including the granting of a licence) in respect of copyright in any book on a subject referred to in the first proviso to sub-section (1A) of section 115A of the Income-tax Act, to the Indian concern, or in respect of any computer software referred to in the second proviso to sub-section (1A) of section 115A of the Income-tax Act, to a person resident in India—

(A) where the agreement is made before the 1st day of June, 1997 30 per cent.;

(B) where the agreement is made on or after the 1st day of June, 1997 but before the 1st day of June, 2005 20 per cent.;

(C) where the agreement is made on or after the 1st day of June, 2005 10 per cent.;

(v) on income by way of royalty [not being royalty of the nature referred to in sub-item (b)(iv)] payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern and where such agreement is with an Indian concern, the agreement is approved by the Central Government or where it relates to a matter included in the industrial policy, for the time being in force, of the Government of India, the agreement is in accordance with that policy—

(A) where the agreement is made after the 31st day of March, 1961 but before the 1st day of April, 1976 50 per cent.;

(B) where the agreement is made after the 31st day of March, 1976 but before the 1st day of June, 1997 30 per cent.;

(C) where the agreement is made on or after the 1st day of June, 1997 but before the 1st day of June, 2005 20 per cent.;

(D) where the agreement is made on or after the 1st day of June, 2005 10 per cent.;

(vi) on income by way of fees for technical services payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern and where such agreement is with an Indian concern, the agreement is approved by the Central Government or where it relates to a matter included in the industrial policy, for the time being in force, of the Government of India, the agreement is in accordance with that policy—

(A) where the agreement is made after the 29th day of February, 1964 but before the 1st day of April, 1976 50 per cent.;

(B) where the agreement is made after the 31st day of March, 1976 but before the 1st day of June, 1997 30 per cent.;

(C) where the agreement is made on or after the 1st day of June, 1997 but before the 1st day of June, 2005 20 per cent.;

(D) where the agreement is made on or after the 1st day of June, 2005 10 per cent.;

(vii) on income by way of short-term capital gains referred to in section 111A 15 per cent.;

(viii) on income by way of long-term capital gains [not being long-term capital gains referred to in clauses (33), (36) and (38) of section 10] 20 per cent.;

(ix) on any other income 40 per cent.;

*Explanation.*—For the purpose of item 1(b)(i) of this Part, “investment income” and “non-resident Indian” shall have the meanings assigned to them in Chapter XII-A of the Income-tax Act.

*Surcharge on income-tax*

The amount of income-tax deducted in accordance with the provisions of—

(A) item 1 of this Part, shall be increased by a surcharge, for purposes of the Union, calculated,—

(i) in the case of every individual, Hindu undivided family, association of persons and body of individuals, whether incorporated or not, at the rate of ten per cent. of such tax where the income or the aggregate of such incomes paid or likely to be paid and subject to the deduction exceeds ten lakh rupees;

(ii) in the case of every artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the Income-tax Act, at the rate of ten per cent. of such tax;

(iii) in the case of every firm at the rate of ten per cent. of such tax where the income or the aggregate of such incomes paid or likely to be paid and subject to the deduction exceeds one crore rupees;

(B) item 2 of this Part, shall be increased by a surcharge, for purposes of the Union, calculated,—

(i) in the case of every domestic company at the rate of ten per cent. of such income-tax where the income or the aggregate of such incomes paid or likely to be paid and subject to the deduction exceeds one crore rupees;

(ii) in the case of every company other than a domestic company at the rate of two and one-half per cent. of such income-tax where the income or the aggregate of such incomes paid or likely to be paid and subject to the deduction exceeds one crore rupees.

**PART III**

RATES FOR CHARGING INCOME-TAX IN CERTAIN CASES, DEDUCTING INCOME-TAX FROM INCOME CHARGEABLE UNDER THE HEAD "SALARIES" AND COMPUTING "ADVANCE TAX"

In cases in which income-tax has to be charged under sub-section (4) of section 172 of the Income-tax Act or sub-section (2) of section 174 or section 174A or section 175 or sub-section (2) of section 176 of the said Act or deducted from, or paid on, from income chargeable under the head "Salaries" under section 192 of the said Act or in which the "advance tax" payable under Chapter XVII-C of the said Act has to be computed at the rate or rates in force, such income-tax or, as the case may be, "advance tax" [not being "advance tax" in respect of any income chargeable to tax under Chapter XII or Chapter XII-A or fringe benefits chargeable to tax under Chapter XII-H or income chargeable to tax under section 115JB or sub-section (1A) of section 161 or section 164 or section 164A or section 167B of the Income-tax Act at the rates as specified in that Chapter or section or surcharge on such "advance tax" in respect of any income chargeable to tax under section 115A or section 115AB or section 115AC or section 115ACA or section 115AD or section 115B or section 115BB or section 115BBA or section 115BBC or section 115E or section 115JB or fringe benefits chargeable to tax under section 115WA] shall be charged, deducted or computed at the following rate or rates:—

*Paragraph A*

(I) In the case of every individual other than the individual referred to in items (II) and (III) of this Paragraph or Hindu undivided family or association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the Income-tax Act, not being a case to which any other Paragraph of this Part applies,—

*Rates of income-tax*

- |  |  |
|--|--|
| (1) where the total income does not exceed Rs. 1,50,000                          | Nil;   |
| (2) where the total income exceeds Rs. 1,50,000 but does not exceed Rs. 3,00,000 | 10 per cent. of the amount by which the total income exceeds Rs. 1,50,000;                 |
| (3) where the total income exceeds Rs. 3,00,000 but does not exceed Rs. 5,00,000 | Rs. 15,000 plus 20 per cent. of the amount by which the total income exceeds Rs. 3,00,000; |
| (4) where the total income exceeds Rs. 5,00,000                                  | Rs. 55,000 plus 30 per cent. of the amount by which the total income exceeds Rs. 5,00,000. |

(II) In the case of every individual, being a woman resident in India, and below the age of sixty-five years at any time during the previous year,—

*Rates of income-tax*

- |  |  |
|--|--|
| (1) where the total income does not exceed Rs. 1,80,000                          | Nil;   |
| (2) where the total income exceeds Rs. 1,80,000 but does not exceed Rs. 3,00,000 | 10 per cent. of the amount by which the total income exceeds Rs. 1,80,000;                 |
| (3) where the total income exceeds Rs. 3,00,000 but does not exceed Rs. 5,00,000 | Rs. 12,000 plus 20 per cent. of the amount by which the total income exceeds Rs. 3,00,000; |
| (4) where the total income exceeds Rs. 5,00,000                                  | Rs. 52,000 plus 30 per cent. of the amount by which the total income exceeds Rs. 5,00,000. |

(III) In the case of every individual, being a resident in India, who is of the age of sixty-five years or more at any time during the previous year,—

*Rates of income-tax*

- |  |  |
|--|--|
| (1) where the total income does not exceed Rs. 2,25,000                          | Nil;   |
| (2) where the total income exceeds Rs. 2,25,000 but does not exceed Rs. 3,00,000 | 10 per cent. of the amount by which the total income exceeds Rs. 2,25,000;                 |
| (3) where the total income exceeds Rs. 3,00,000 but does not exceed Rs. 5,00,000 | Rs. 7,500 plus 20 per cent. of the amount by which the total income exceeds Rs. 3,00,000;  |
| (4) where the total income exceeds Rs. 5,00,000                                  | Rs. 47,500 plus 30 per cent. of the amount by which the total income exceeds Rs. 5,00,000. |

*Surcharge on income-tax*

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph, or in section 111A or section 112, shall,—

(i) in the case of every individual or Hindu undivided family or association of persons or body of individuals having a total income exceeding ten lakh rupees, be increased by a surcharge for purposes of the Union calculated at the rate of ten per cent. of such income-tax;

(ii) in the case of every person, other than those mentioned in item (i), be increased by a surcharge for purposes of the Union calculated at the rate of ten per cent. of such income-tax:

Provided that in case of persons mentioned in item (i) above having a total income exceeding ten lakh rupees, the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax on a total income of ten lakh rupees by more than the amount of income that exceeds ten lakh rupees.

*Paragraph B*

In the case of every co-operative society, —

*Rates of income-tax*

- |  |   |
|--|---|
| (1) where the total income does not exceed Rs. 10,000                        | 10 per cent. of the total income;   |
| (2) where the total income exceeds Rs. 10,000 but does not exceed Rs. 20,000 | Rs. 1,000 plus 20 per cent. of the amount by which the total income exceeds Rs. 10,000; |
| (3) where the total income exceeds Rs. 20,000                                | Rs. 3,000 plus 30 per cent. of the amount by which the total income exceeds Rs. 20,000. |

*Paragraph C*

In the case of every firm,—

*Rate of income-tax*

On the whole of the total income 30 per cent.

*Surcharge on income-tax*

The amount of income-tax computed at the rate hereinbefore specified, or in section 111A or section 112, shall, in the case of every firm having a total income exceeding one crore rupees, be increased by a surcharge for purposes of the Union calculated at the rate of ten per cent of such income-tax:

Provided that in the case of every firm having a total income exceeding one crore rupees, the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees.

*Paragraph D*

In the case of every local authority,—

*Rate of income-tax*

On the whole of the total income 30 per cent.

*Paragraph E*

In the case of a company,—

*Rates of income-tax*

I. In the case of a domestic company 30 per cent. of the total income;

II. In the case of a company other than a domestic company—

(i) on so much of the total income as consists of,—

(a) royalties received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 31st day of March, 1961 but before the 1st day of April, 1976; or

(b) fees for rendering technical services received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 29th day of February, 1964 but before the 1st day of April, 1976,

and where such agreement has, in either case, been approved by the Central Government 50 per cent.;

(ii) on the balance, if any, of the total income 40 per cent.

*Surcharge on income-tax*

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph, or in section 111A or section 112, shall, in the case of every company, be increased by a surcharge for purposes of the Union calculated,—

(i) in the case of every domestic company having a total income exceeding one crore rupees, at the rate of ten per cent. of such income-tax;

(ii) in the case of every company other than a domestic company having a total income exceeding one crore rupees at the rate of two and one-half per cent.:

Provided that in the case of every company having a total income exceeding one crore rupees, the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees.

## PART IV

[See section 2(12)(c)]

## RULES FOR COMPUTATION OF NET AGRICULTURAL INCOME

*Rule 1.*—Agricultural income of the nature referred to in sub-clause (a) of clause (1A) of section 2 of the Income-tax Act shall be computed as if it were income chargeable to income-tax under that Act under the head "Income from other sources" and the provisions of sections 57 to 59 of that Act shall, so far as may be, apply accordingly:



Provided that sub-section (2) of section 58 shall apply subject to the modification that the reference to section 40A therein shall be construed as not including a reference to sub-sections (3) and (4) of section 40A.

**Rule 2.**—Agricultural income of the nature referred to in sub-clause (b) or sub-clause (c) of clause (1A) of section 2 of the Income-tax Act [other than income derived from any building required as a dwelling-house by the receiver of the rent or revenue of the cultivator or the receiver of rent-in-kind referred to in the said sub-clause (c)] shall be computed as if it were income chargeable to income-tax under that Act under the head "Profits and gains of business or profession" and the provisions of sections 30, 31, 32, 36, 37, 38, 40, 40A [other than sub-sections (3) and (4) thereof], 41, 43, 43A, 43B and 43C of the Income-tax Act shall, so far as may be, apply accordingly.

**Rule 3.**—Agricultural income of the nature referred to in sub-clause (c) of clause (1A) of section 2 of the Income-tax Act, being income derived from any building required as a dwelling-house by the receiver of the rent or revenue or the cultivator or the receiver of rent-in-kind referred to in the said sub-clause (c) shall be computed as if it were income chargeable to income-tax under that Act under the head "Income from house property" and the provisions of sections 23 to 27 of that Act shall, so far as may be, apply accordingly.

**Rule 4.**—Notwithstanding anything contained in any other provisions of these rules, in a case—

(a) where the assessee derives income from sale of tea grown and manufactured by him in India, such income shall be computed in accordance with rule 8 of the Income-tax Rules, 1962, and sixty per cent. of such income shall be regarded as the agricultural income of the assessee;

(b) where the assessee derives income from sale of centrifuged latex or cenex or latex based crepes (such as pale latex crepe) or brown crepes (such as estate brown crepe, re-milled crepe, smoked blanket crepe or flat bark crepe) or technically specified block rubbers manufactured or processed by him from rubber plants grown by him in India, such income shall be computed in accordance with rule 7A of the Income-tax Rules, 1962, and sixty-five per cent. of such income shall be regarded as the agricultural income of the assessee;

(c) where the assessee derives income from sale of coffee grown and manufactured by him in India, such income shall be computed in accordance with rule 7B of the Income-tax Rules, 1962, and sixty per cent. or seventy-five per cent., as the case may be, of such income shall be regarded as the agricultural income of the assessee.

**Rule 5.**—Where the assessee is a member of an association of persons or a body of individuals (other than a Hindu undivided family, a company or a firm) which in the previous year has either no income chargeable to tax under the Income-tax Act or has total income not exceeding the maximum amount not chargeable to tax in the case of an association of persons or a body of individuals (other than a Hindu undivided family, a company or a firm) but has any agricultural income then, the agricultural income or loss of the association or body shall be computed in accordance with these rules and the share of the assessee in the agricultural income or loss so computed shall be regarded as the agricultural income or loss of the assessee.

**Rule 6.**—Where the result of the computation for the previous year in respect of any source of agricultural income is a loss, such loss shall be set off against the income of the assessee, if any, for that previous year from any other source of agricultural income:

Provided that where the assessee is a member of an association of persons or a body of individuals and the share of the assessee in the agricultural income of the association or body, as the case may be, is a loss, such loss shall not be set off against any income of the assessee from any other source of agricultural income.

**Rule 7.**—Any sum payable by the assessee on account of any tax levied by the State Government on the agricultural income shall be deducted in computing the agricultural income.

**Rule 8.**—(1) Where the assessee has, in the previous year relevant to the assessment year commencing on the 1st day of April, 2008, any agricultural income and the net result of the computation of the agricultural income of the assessee for any one or more of the previous years relevant to the assessment years commencing on the 1st day of April, 2000 or the 1st day of April, 2001 or the 1st day of April, 2002 or the 1st day of April, 2003 or the 1st day of April, 2004 or the 1st day of April, 2005 or the 1st day of April, 2006 or the 1st day of April, 2007, is a loss, then, for the purposes of sub-section (2) of section 2 of this Act,—

(i) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2000, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2001 or the 1st day of April, 2002 or the 1st day of April, 2003 or the 1st day of April, 2004 or the 1st day of April, 2005 or the 1st day of April, 2006 or the 1st day of April, 2007,

(ii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2001, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2002 or the 1st day of April, 2003 or the 1st day of April, 2004 or the 1st day of April, 2005 or the 1st day of April, 2006 or the 1st day of April, 2007,

(iii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2002, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2003 or the 1st day of April, 2004 or the 1st day of April, 2005 or the 1st day of April, 2006 or the 1st day of April, 2007,

(iv) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2003, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2004 or the 1st day of April, 2005 or the 1st day of April, 2006 or the 1st day of April, 2007,

(v) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2004, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2005 or the 1st day of April, 2006 or the 1st day of April, 2007,

(vi) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2005, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2006 or the 1st day of April, 2007,

(vii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2006, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2007,

(viii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2007,

shall be set off against the agricultural income of the assessee for the previous year relevant to the assessment year commencing on the 1st day of April, 2008.

(2) Where the assessee has, in the previous year relevant to the assessment year commencing on the 1st day of April, 2009, or, if by virtue of any provision of the Income-tax Act, income-tax is to be charged in respect of the income of a period other than the previous year, in such other period, any agricultural income and the net result of the computation of the agricultural income of the assessee for any one or more of the previous years relevant to the assessment years commencing on the 1st day of April, 2001 or the 1st day of April, 2002 or the 1st day of April, 2003 or the 1st day of April, 2004 or the 1st day of April, 2005 or the 1st day of April, 2006 or the 1st day of April, 2007 or the 1st day of April, 2008, is a loss, then, for the purposes of sub-section (10) of section 2 of this Act,—

(i) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2001, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2002 or the 1st day of April, 2003 or the 1st day of April, 2004 or the 1st day of April, 2005 or the 1st day of April, 2006 or the 1st day of April, 2007 or the 1st day of April, 2008,

(ii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2002, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2003 or the 1st day of April, 2004 or the 1st day of April, 2005 or the 1st day of April, 2006 or the 1st day of April, 2007 or the 1st day of April, 2008,

(iii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2003, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2004 or the 1st day of April, 2005 or the 1st day of April, 2006 or the 1st day of April, 2007 or the 1st day of April, 2008,

(iv) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2004, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2005 or the 1st day of April, 2006 or the 1st day of April, 2007 or the 1st day of April, 2008,

(v) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2005, to the extent, if any, such loss has not been set off against the agricultural income for the previous year

relevant to the assessment year commencing on the 1st day of April, 2006 or the 1st day of April, 2007 or the 1st day of April, 2008,

(vi) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2006, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2007 or the 1st day of April, 2008,

(vii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2007, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2008,

(viii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2008,

shall be set off against the agricultural income of the assessee for the previous year relevant to the assessment year commencing on the 1st day of April, 2009.

(3) Where any person deriving any agricultural income from any source has been succeeded in such capacity by another person, otherwise than by inheritance, nothing in sub-rule (1) or sub-rule (2) shall entitle any person, other than the person incurring the loss, to have it set off under sub-rule (1) or, as the case may be, sub-rule (2).

(4) Notwithstanding anything contained in this rule, no loss which has not been determined by the Assessing Officer under the provisions of these rules or the rules contained in Part IV of the First Schedule to the Finance Act, 2000 (10 of 2000), or of the First Schedule to the Finance Act, 2001 (14 of 2001), or of the First Schedule to the Finance Act, 2002 (20 of 2002), or of the First Schedule to the Finance Act, 2003 (32 of 2003), or of the First Schedule to the Finance (No. 2) Act, 2004 (23 of 2004) or of the First Schedule to the Finance Act, 2005 (18 of 2005), or of the First Schedule to the Finance Act, 2006 (21 of 2006) or of the First Schedule to the Finance Act, 2007 (22 of 2007) shall be set off under sub-rule (1) or, as the case may be, sub-rule (2).

**Rule 9.**—Where the net result of the computation made in accordance with these rules is a loss, the loss so computed shall be ignored and the net agricultural income shall be deemed to be *nil*.

**Rule 10.**—The provisions of the Income-tax Act relating to procedure for assessment (including the provisions of section 288A relating to rounding off of income) shall, with the necessary modifications, apply in relation to the computation of the net agricultural income of the assessee as they apply in relation to the assessment of the total income.

**Rule 11.**—For the purposes of computing the net agricultural income of the assessee, the Assessing Officer shall have the same powers as he has under the Income-tax Act for the purposes of assessment of the total income.

## THE SECOND SCHEDULE .

[See section 77(ii)]

In the First Schedule to the Customs Tariff Act,—

(1) in Chapter 24, in tariff items 2402 10 10 and 2402 10 20, for the entry in column (4) occurring against each of them, the entry "60%" shall be substituted;

(2) in Chapter 27, in tariff item 2716 00 00, for the entry in column (4), the entry "Rs. 2000 per 1000 kWh" shall be substituted.



## THE THIRD SCHEDULE

[See section 77(iii)]

In the Second Schedule to the Customs Tariff Act,—

- (i) against heading No. 12, for the entry in column (3), the entry "Rs. 3000 per tonne" shall be substituted;
- (ii) after heading No. 26 and the entries relating thereto, the following shall be inserted, namely:—

Heading No.	Description of article	Rate of duty
(1)	(2)	(3)
27.	Pig iron and spiegeleisen in pigs, blocks or other primary forms	20%
28.	Ferrous products obtained by direct reduction of iron ore and other spongy ferrous products, in lumps, pellets or similar forms; iron having minimum purity by weight of 99.94%, in lumps, pellets or similar forms	20%
29.	Ferrous waste and scrap, remelting scrap ingots of iron or steel	20%
30.	Granules and powders, of pig iron, spiegeleisen, iron or steel	20%
31.	Iron and non-alloy steel in ingots or other primary forms	20%
32.	Semi-finished products of iron or non-alloy steel	20%
33.	Flat rolled products of iron or non-alloy steel, hot rolled, not clad, plated or coated	20%
34.	Flat rolled products of iron or non-alloy steel, cold rolled (cold-reduced), not clad, plated or coated	20%
35.	Flat rolled products of iron or non-alloy steel, plated or coated with zinc	20%
36.	Bars and rods, hot-rolled, in irregularly wound coils, of iron or non-alloy steel	20%
37.	Other bars and rods of iron or non-alloy steel, not further worked than forged, hot-rolled, hot-drawn or hot-extruded, but including those twisted after rolling	20%
38.	Other bars and rods of iron or non-alloy steel	20%
39.	Angles, shapes and sections of iron or non-alloy steel	20%
40.	Wire of iron or non-alloy steel	20%
41.	Tubes and pipes, of iron or steel	20%
42.	Basmati rice	Rs. 12000 per tonne."

## THE FOURTH SCHEDULE

(See section 86)

Provisions of the Central Excise Rules, 1944, to be amended	Amendment	Period of effect of amendment
(1)	(2)	(3)
Rule 12 of the Central Excise Rules, 1944 as substituted by notification number G.S.R. 699(E), dated the 22nd September, 1994.	<p>In the Central Excise Rules, 1944, in rule 12, in sub-rule (1), after the proviso, the following proviso shall be inserted, namely:—</p> <p>“Provided further that the rebate of duty paid on excisable goods cleared from factory for export shall also be admissible for that portion of duty paid for which refund has been granted in terms of the notification of the Government of India in the Ministry of Finance (Department of Revenue) number G.S.R. 508(E), dated the 8th July, 1999 [32/99-Central Excise, dated the 8th July, 1999] or number G.S.R. 509(E), dated the 8th July, 1999 [33/99-Central Excise, dated the 8th July, 1999].”</p>	8th day of July, 1999 to the 30th day of June, 2001 (both days inclusive).

## THE FIFTH SCHEDULE

(See section 87)

Provisions of the Central Excise (No. 2) Rules, 2001, to be amended	Amendment	Period of effect of amendment
(1)	(2)	(3)
Rule 18 of the Central Excise (No. 2) Rules, 2001 as published <i>vide</i> notification number G.S.R. 444(E), dated the 21st June, 2001.	<p>In the Central Excise (No. 2) Rules, 2001, in rule 18, before the <i>Explanation</i>, the following proviso shall be inserted, namely:—</p> <p>“Provided that the rebate of duty paid on excisable goods cleared from factory for export shall also be admissible for the portion of duty paid for which the refund has been granted in terms of the notifications of the Government of India in the Ministry of Finance (Department of Revenue) number G.S.R. 508(E), dated the 8th July, 1999 [32/99-Central Excise, dated the 8th July, 1999] or number G.S.R. 509(E), dated the 8th July, 1999 [33/99-Central Excise, dated the 8th July, 1999], number G.S.R. 565(E), dated the 31st July, 2001 [39/2001-Central Excise, dated the 31st July, 2001].”</p>	1st day of July, 2001 to 28th day of February, 2002 (both days inclusive).

## THE SIXTH SCHEDULE

(See section 88)

Provisions of the Central Excise Rules, 2002, to be amended	Amendment	Period of effect of amendment
(1)	(2)	(3)
Rule 18 of the Central Excise Rules, 2002 as published vide notification number G.S.R. 143(E), dated the 1st March, 2002.	<p>In the Central Excise Rules, 2002, in rule 18, before the <i>Explanation</i>, the following proviso shall be inserted, namely:—</p> <p>“Provided that the rebate of duty paid on excisable goods cleared from factory for export shall also be admissible for that portion of duty paid for which the refund has been granted in terms of the notifications of the Government of India in the Ministry of Finance (Department of Revenue) number G.S.R. 508(E), dated the 8th July, 1999 [32/99-Central Excise, dated the 8th July, 1999] or number G.S.R. 509(E), dated the 8th July, 1999 [33/99-Central Excise, dated the 8th July, 1999], number G.S.R. 565(E), dated the 31st July, 2001 [39/2001-Central Excise, dated the 31st July, 2001], or notification of the Government of India in the erstwhile Ministry of Finance and Company Affairs (Department of Revenue) number G.S.R. 764(E), dated the 14th November, 2002 [56/2002-Central Excise, dated the 14th November, 2002], number G.S.R. 765(E), dated the 14th November, 2002 [57/2002-Central Excise, dated the 14th November, 2002], or notification of the Government of India in the Ministry of Finance (Department of Revenue) number G.S.R. 513(E), dated the 25th June, 2003 [56/2003-Central Excise, dated the 25th June, 2003], number G.S.R. 717(E), dated the 9th September, 2003 [71/2003-Central Excise, dated the 9th September, 2003].”</p>	1st day of March, 2002 to 7th day of December, 2006 (both days inclusive).



## THE SEVENTH SCHEDULE

(See section 89)

In the First Schedule to the Central Excise Tariff Act,—

(1) in Chapter 24,—

(i) in tariff item 2402 20 10, for the entry in column (4), the entry "Rs. 659 per thousand" shall be substituted;

(ii) in tariff item 2402 20 20, for the entry in column (4), the entry "Rs.1068 per thousand" shall be substituted;

(2) in Chapter 25,—

(i) in tariff item 2523 10 00, for the entry in column (4), the entry "Rs. 450 per tonne" shall be substituted;

(ii) in tariff items 2523 29 10, 2523 29 20, 2523 29 30, 2523 29 40 and 2523 29 90, for the entry in column (4), the entry "Rs. 900 per tonne" shall be substituted against each of them;

(3) in Chapter 39, in NOTE 16, for the word "metallization", the words "metallization or lamination or lacquering" shall be substituted;

(4) in Chapter 85, in tariff item 8523 80 20, for the entry in column (4), the entry "12%" shall be substituted.

## THE EIGHTH SCHEDULE

(See section 122)

In the Seventh Schedule to the Finance Act, 2001 (14 of 2001),—

(1) in tariff item 2402 20 10, for the entry in column (4), the entry "Rs. 90 per thousand" shall be substituted;

(2) in tariff item 2402 20 20, for the entry in column (4), the entry "Rs. 145 per thousand" shall be substituted;

(3) after tariff item 2709 00 00 and the entries relating thereto, the following tariff items and entries shall be inserted, namely:—

Tariff item	Description of goods	Unit	Rate of duty
(1)	(2)	(3)	(4)
"8517 12	— Telephones for cellular networks or for other wireless networks:		
8517 12 10	— Push button type	u	1%
8517 12 90	— Other	u	1%".

(4) sub-heading 5402 20, tariff items 5402 20 10, 5402 20 90, 5402 33 00, 5402 46 00, 5402 47 00, 5402 52 00, 5402 62 00, 5406 10 00 and the entries relating thereto shall be omitted.

**THE NINTH SCHEDULE**

[See section 125 (ii)]

In the Seventh Schedule to the Finance Act, 2005 (18 of 2005),--

(1) in tariff item 2402 20 10, for the entry in column (4), the entry "Rs. 70 per thousand" shall be substituted;

(2) in tariff item 2402 20 20, for the entry in column (4), the entry "Rs. 110 per thousand" shall be substituted.

Sd/-

**K. D. SINGH,**

Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

**H. D. VYAS,**

Secretary to Government.



सत्यमेव जयते

# The Gujarat Government Gazette

## EXTRAORDINARY

### PUBLISHED BY AUTHORITY

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Separate paging is given to this part in order that it may be filed as a Separate Compilation.

### PART VI

Acts of Parliament and Ordinances Promulgated by the President.

#### LEGISLATIVE AND PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 10<sup>th</sup> September, 2008.

No. : RPB/34-2008/Act-19-08/E :- The following Act of Parliament is republished for general information :-

Government of India  
Ministry of Law and Justice  
Legislative Department

New Delhi, the 19<sup>th</sup> May, 2008/Vaisakha 29, 1930 (Sake)

The following Act of Parliament has received the assent of the President on the 16<sup>th</sup> May, 2008 is hereby published for general information :-

#### THE JAWAHARLAL INSTITUTE OF POST-GRADUATE MEDICAL EDUCATION AND RESEARCH, PUDUCHERRY ACT, 2008

(Act No. 19 of 2008)

AN ACT

[16<sup>th</sup> May, 2008]

*to declare the Institution known as the Jawaharlal Institute of Post-Graduate Medical Education and Research, Puducherry, to be an institution of national importance and to provide for its incorporation and matters connected therewith.*

BE it enacted by Parliament in the Fifty-ninth Year of the Republic of India as follows :-

1. (1) This Act may be called the Jawaharlal Institute of Post-Graduate Medical Education and Research, Puducherry Act, 2008. Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official gazette, appoint.

2. Whereas the objects of the institution known as the Jawaharlal Institute of Post-Graduate Medical Education and Research, Puducherry in the Union territory of Puducherry are such as to make the institution one of national importance, it is hereby declared that the institution known as the Jawaharlal Institute of Post-Graduate Medical Education and Research, Puducherry is an institution of national importance.

Declaration of Jawaharlal Institute of Post-Graduate Medical Education and Research, Puducherry, as an institution of national importance.



## Definitions.

3. In this Act, unless the context otherwise requires,—

- (a) "Fund" means the Fund of the Institute referred to in section 16;
- (b) "Governing Body" means the Governing Body of the Institute;
- (c) "Institute" means the institution known as the Jawaharlal Institute of Post-Graduate Medical Education and Research, Puducherry, incorporated under this Act;
- (d) "member" means a member of the Institute;
- (e) "prescribed" means prescribed by rules made under this Act;
- (f) "specified" means specified by regulations made under this Act.

## Incorporation of Institute.

4. The Jawaharlal Institute of Post-Graduate Medical Education and Research, Puducherry, an Institute functioning under the Union Ministry of Health and Family Welfare, is hereby constituted a body corporate by the name aforesaid and as such body corporate, it shall have perpetual succession and a common seal with power, subject to the provisions of this Act, to acquire, hold and dispose of property and to contract and shall, by that name, sue and be sued.

## Composition of Institute.

5. (1) The Institute shall consist of the following members, namely:—

- (a) Secretary to the Government of India in the Ministry or Department of Health and Family Welfare, *ex officio*;
- (b) the Vice-Chancellor of the Puducherry University, *ex officio*;
- (c) the Vice-Chancellor of the Tamil Nadu Dr. M.G.R. Medical University, Tamil Nadu, *ex officio*;
- (d) the Director-General of Health Services, Government of India, *ex officio*;
- (e) the Director of the Institute, *ex officio*;
- (f) Chief Secretary, Government of Puducherry, *ex officio*;
- (g) Secretary to the Government of India or his nominee (not below the rank of Joint Secretary) in the Department of Expenditure, Ministry of Finance, *ex officio*;
- (h) Secretary to the Government of India or his nominee (not below the rank of Joint Secretary) in the Department of Higher Education, Ministry of Human Resource Development, *ex officio*;
- (i) seven persons of whom one shall be a non-medical scientist representing the Indian Science Congress Association, to be nominated by the Central Government in such manner as may be prescribed;
- (j) four representatives of the medical faculties of Indian Universities to be nominated by the Central Government in such manner as may be prescribed; and
- (k) three Members of Parliament of whom two shall be elected from among themselves by the members of the House of the People and one from among themselves by the members of the Council of States.

(2) It is hereby declared that the office of member of the Institute shall not disqualify its holder for being chosen as, or for being, a member of either House of Parliament.

## Term of office of, and vacancies among members.

6. (1) Save as otherwise provided in this section, the term of office of a member shall be five years from the date of his nomination or election.

(2) The term of office of a member elected under clause (k) of sub-section (1) of section 5 shall come to an end as soon as he becomes a Minister or Minister of State or Deputy Minister or the Speaker or the Deputy Speaker of Lok Sabha or the Deputy Chairman of Rajya Sabha or ceases to be a member of the House from which he was elected.

n of office of an *ex officio* member shall continue so long as he holds the which he is such a member.

of office of a member nominated or elected to fill a casual vacancy shall remainder of the term of the member in whose place he is nominated or

An out-going member other than a member elected under clause (k) of sub-section of section 5 shall continue in office until another person is nominated as a member in his place or for a period of three months, whichever is earlier:

Provided that the Central Government shall nominate a member in place of an out-going member within the said period of three months.

(6) An out-going member shall be eligible for re-nomination or re-election.

(7) A member may resign his office by writing under his hand addressed to the Central Government but he shall continue in office until his resignation is accepted by that Government.

(8) The manner of filling vacancies among members shall be such as may be prescribed.

7. (1) There shall be a President of the Institute who shall be nominated by the Central Government from among the members other than the Director of the Institute.

President of  
Institute, his  
powers and  
functions.

(2) The President shall exercise such powers and discharge such functions as are laid down in this Act or as may be prescribed.

8. The President and other members shall receive such allowances from the Institute as may be prescribed.

Allowances of  
President and  
members.

9. The Institute shall hold its first meeting at such time and place as may be appointed by the Central Government and shall observe such rules of procedure in regard to the transaction of business at the first meeting as may be laid down by that Government; and thereafter, the Institute shall meet at such times and places and observe such rules of procedure in regard to the transaction of business including quorum at its meetings as may be specified.

Meetings of  
Institute.

10. (1) There shall be a Governing Body of the Institute which shall be constituted by the Institute in such manner as may be specified:

Governing  
Body and  
other  
committees  
of Institute.

Provided that the number of persons who are not members of the Institute shall not exceed one-third of the total membership of the Governing Body.

(2) The Governing Body shall be the executive committee of the Institute and shall exercise such powers and discharge such functions as the Institute may specify in this behalf.

(3) The President of the Institute shall be the Chairperson of the Governing Body and as Chairperson thereof he shall exercise such powers and discharge such functions as may be specified.

(4) The procedure to be followed in exercise of its powers and discharge of its functions by the Governing Body, and the term of office of, and the manner of filling vacancies among the members of the Governing Body shall be such as may be specified.

(5) Subject to such control and restrictions as may be prescribed, the Institute may constitute as many standing committees and as many *ad hoc* committees as it thinks fit for exercising any power or discharging any function of the Institute or for inquiring into, or reporting or advising upon, any matter which the Institute may refer to them.

(6) The Chairperson and members of the Governing Body and the Chairperson and the members of a standing committee or an *ad hoc* committee shall receive such allowances, as may be specified.

11. (1) There shall be a chief executive officer of the Institute who shall be designated as the Director of the Institute and shall, subject to such rules as may be prescribed, be appointed by the Institute:

Staff of  
Institute.

Provided that the first Director of the Institute shall be appointed by the Central Government.



(2) The Director shall act as the Secretary to the Institute as well as the Governing Body.

(3) The Director shall hold office for a term of five years from the date on which he enters upon his office or until he attains the age of sixty-five years, whichever is earlier.

(4) The Director shall exercise such powers and discharge such functions as may be specified, or as may be delegated to him by the Institute or the President of the Institute or the Governing Body or the Chairperson of the Governing Body.

(5) Subject to such rules as may be prescribed, the Institute may appoint such number of other officers and employees as may be necessary for the exercise of its powers and discharge of its functions and may determine the designations and grades of such other officers and employees.

(6) Subject to such rules as may be prescribed, the Director and other officers and employees of the Institute shall be entitled to such salary and allowances and shall be governed by such conditions of service in respect of leave, pension, provident fund and other matters as may be specified.

Objects of  
Institute.

12. The objects of the Institute shall be—

(a) to develop patterns of teaching in undergraduate and postgraduate medical education in all its branches so as to demonstrate a high standard of medical education;

(b) to bring together, as far as may be, in one place educational facilities of the highest order for the training of personnel in all important branches of health activity; and

(c) to attain self-sufficiency in postgraduate medical education to meet the country's needs for specialists and medical teachers.

Functions of  
Institute.

13. With a view to the promotion of the objects specified in section 12, the Institute may—

(a) provide for undergraduate and postgraduate teaching in the science of modern medicine and other allied sciences, including physical and biological sciences;

(b) provide facilities for research in various branches of such sciences;

(c) provide for the teaching of humanities;

(d) conduct experiments in new methods of medical education, both undergraduate and postgraduate, in order to arrive at satisfactory standards of such education;

(e) specify courses and curricula for both undergraduate and postgraduate studies;

(f) notwithstanding anything contained in any other law for the time being in force, establish and maintain—

(i) one or more medical colleges with different departments, including a department of preventive and social medicine, sufficiently staffed and equipped to undertake not only undergraduate medical education but also postgraduate medical education in different subjects,

(ii) one or more well-equipped hospitals,

(iii) a dental college with such institutional facilities for the practice of dentistry and for the practical training of students as may be necessary,

(iv) a nursing college sufficiently staffed and equipped for the training of nurses,

(v) rural and urban health organisations which will form centres for the field training of the medical, dental and nursing students of the Institute as well as for research into community health problems, and

(vi) other institutions for the training of different types of health workers, such as physiotherapists, occupational therapists, pharmacists, drug analysts and medical technicians of various kinds;

(g) train teachers from different medical colleges in India;

(h) hold examinations and grant such degrees, diplomas and other academic distinctions and titles in undergraduate and postgraduate medical education as may be laid down in the regulations;

(i) institute, and appoint persons to, professorships, readerships, lectureships and posts of any description in accordance with regulations;

(j) receive grants from the Government and gifts, donations, benefactions, bequests and transfers of properties, both movable and immovable, from donors, benefactors, testators or transferors, as the case may be;

(k) deal with any property belonging to, or vested in, the Institute in any manner which is considered necessary for promoting the objects specified in section 12;

(l) demand and receive with the prior approval of the Central Government such fees and other charges as may be specified:

Provided that such fees and other charges payable by the students shall in no case exceed the fees and other charges specified by a medical Institute of the Central Government;

(m) reserve at least twenty seats out of every seventy-five seats in undergraduate courses in the institute for local applicants;

(n) provide free treatment to the poor patients in the same manner as are being provided by a medical Institute of the Central Government;

(o) construct quarters for its staff and allot such quarters to the staff in accordance with such regulations as may be made in this behalf;

(p) borrow money, with the prior approval of the Central Government, on the security of the property of the Institute;

(q) do all such other acts and things as may be necessary to further the objects specified in section 12.

**14.** The properties of the Jawaharlal Institute of Post-Graduate Medical Education and Research, Puducherry which vested in the Central Government shall, on the commencement of this Act, vest in the Institute.

Vesting of property.

**15.** The Central Government may, after due appropriation made by Parliament by law in this behalf, pay to the Institute in each financial year such sums of money and in such manner as may be considered necessary by that Government for the exercise of its powers and discharge of its functions under this Act.

Payment to Institute

**16. (1)** The Institute shall maintain a Fund to which shall be credited—

Fund of Institute.

(a) all moneys provided by the Central Government;

(b) all fees and other charges received by the Institute;

(c) all moneys received by the Institute by way of grants, gifts, donations, benefactions, bequests or transfers; and

(d) all moneys received by the Institute in any other manner or from any other source.

(2) All moneys credited to the Fund shall be deposited in such banks or invested in such manner as the Institute may, with the approval of the Central Government, decide.



(3) The Fund shall be applied towards meeting the expenses of the Institute including expenses incurred in the exercise of its powers and discharge of its functions under section 13.

Budget of  
Institute.

17. The Institute shall prepare in such form and at such time every year a budget in respect of the financial year next ensuing showing the estimated receipts and expenditure of the Institute and shall forward to the Central Government such number of copies thereof as may be prescribed.

Accounts and  
audit.

18. (1) The Institute shall maintain proper accounts and other relevant records and prepare an annual statement of accounts including the balance-sheet in such form as the Central Government may, by rules prescribe, and in accordance with such general directions as may be issued by that Government, in consultation with the Comptroller and Auditor-General of India.

(2) The accounts of the Institute shall be audited by the Comptroller and Auditor-General of India and any expenditure incurred by him in connection with such audit shall be payable by the Institute to the Comptroller and Auditor-General of India.

(3) The Comptroller and Auditor-General of India and any person appointed by him in connection with the audit of the accounts of the Institute shall have the same rights, privileges and authority in connection with such audit as the Comptroller and Auditor-General of India has in connection with the audit of the Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect the offices of the Institute as well as of the institutions established and maintained by it.

(4) The Accounts of the Institute as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf together with the audit report thereon shall be forwarded annually to the Central Government and that Government shall cause the same to be laid before both Houses of Parliament.

Annual  
report.

19. The Institute shall prepare for every year a report of its activities during that year and submit the report to the Central Government in such form and on or before such date as may be prescribed and a copy of this report shall be laid before both Houses of Parliament within one month of its receipt.

Pension and  
provident  
funds.

20. (1) The Institute shall constitute for the benefit of its officers, teachers and other employees in such manner and subject to such conditions as may be specified by regulations, such pension and provident funds as it may deem fit.

(2) Where any such pension or provident fund has been constituted, the Central Government may declare that the provisions of the Provident Funds Act, 1925, shall apply to, such fund as if it were a Government Provident Fund. 19 of 1925.

Authentication  
of orders and  
instruments of  
Institute.

21. All orders and decisions of the Institute shall be authenticated by the signature of the Director or any other member authorised by the Institute in this behalf and all other instruments shall be authenticated by the signature of such officers as may be authorised by the Institute.

Acts and  
proceedings  
not to be  
invalidated by  
vacancies, etc.

22. No act done or proceeding taken by the Institute, Governing Body or any standing or *ad hoc* committee under this Act shall be questioned on the ground merely of the existence of any vacancy in, or defect in the constitution of, the Institute, Governing Body or such standing or *ad hoc* committee.

Grant of  
medical  
degrees,  
diplomas,  
etc., by  
Institute.

23. Notwithstanding anything contained in any other law for the time being in force, the Institute shall have the power to grant medical, dental, nursing degrees, diplomas and other academic distinctions and titles under this Act.

102 of 1956.  
16 of 1948.  
48 of 1947.

24. Notwithstanding anything contained in the Indian Medical Council Act, 1956 the Dentist Act, 1948, the Indian Nursing Council Act, 1947, the medical degrees and diplomas, dental degrees and nursing degrees granted by the Institute under this Act shall be recognised medical qualifications for the purposes of the Acts aforesaid and shall be deemed to be included in the Schedules to the respective Acts.

Recognition of medical qualifications granted by Institute.

25. The Institute shall carry out such directions as may be issued to it from time to time by the Central Government for the efficient administration of this Act.

Control by Central Government.

26. If in, or in connection with, the exercise of its powers and discharge of its functions by the Institute under this Act, any dispute arises between the Institute and the Central Government, the decision of the Central Government thereon shall be final.

Resolution of differences.

27. The Institute shall furnish to the Central Government such reports, returns and other information as that Government may require from time to time.

Returns and information.

28. (1) On and from the date of commencement of this Act, every employee holding a post in the Jawaharlal Institute of Post-Graduate Medical Education and Research, Puducherry, before that date, shall hold the post in the Institute by the same tenure, and upon the same terms and conditions of service including remuneration, leave, provident fund, retirement and other terminal benefits as he would have held such post as if this Act had not been passed and shall continue to do so as an employee of the Institute for a period of one year from the date of the commencement of this Act, unless he, within the said period of one year, opts not to be an employee of the Institute or until his tenure, remuneration or other terms and conditions of service are duly altered by the regulations:

Transfer of service of existing employees.

Provided that the officers of the Jawaharlal Institute of Post-Graduate Medical Education and Research, Puducherry belonging to the Central Health Service, who opts to be an employee of the Institute then, his appointment, pay, allowances and other terms and conditions of service shall be such as may be prescribed.

(2) Every person, who opts not to be an employee of the Institute within the period so specified, shall be governed by the rules and orders as are applicable to the Central Government officers and employees of equivalent rank.

(3) Subject to the provisions of this section, the tenure, remuneration and other terms and conditions of service including pension of any employee of the Institute shall not be altered to his disadvantage without the previous approval of the Central Government.

29. (1) The Central Government, after consultation with the Institute, may by notification in the Official Gazette, make rules to carry out the purposes of this Act:

Power to make rules.

Provided that consultation with the Institute, shall not be necessary on the first occasion of making of rules under this section, but the Central Government shall take into consideration the suggestions which the Institute may make in relation to the amendment of such rules after they are made.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the manner of nomination of members under clauses (j) and (k) of sub-section (1) of section 5;

(b) the manner of filling vacancies under sub-section (8) of section 6;

(c) the powers and functions to be exercised and discharged by the President of the Institute under section 7;

(d) the allowances to be paid to the President and other members of the Institute under section 8;

(e) the control and restrictions in relation to the constitution of standing and ad hoc committees under sub-section (5) of section 10;

(f) the tenure of office, salaries and allowances and other conditions of service of the Director and other officers and employees of the Institute appointed by the Institute under section 11;



(g) the form in which, and the time at which, the budgets and reports shall be prepared by the Institute under section 17;

(h) the form of annual statement of accounts including balance-sheet under sub-section (1) of section 18;

(i) the form of annual report under section 19;

(j) any other matter which has to be or may be prescribed by rules.

Power to  
make  
regulations.

30. (1) The Institute with the previous approval of the Central Government may, by notification in the Official Gazette, make regulations consistent with this Act and the rules made thereunder to carry out the purposes of this Act, and without prejudice to the generality of this power, such regulations may provide for—

(a) the summoning and holding of meetings, other than the first meeting, of the Institute, the time and place where such meetings are to be held and the conduct of business at such meetings under section 9;

(b) the manner of constituting the Governing Body and standing and *ad hoc* committees, the term of office of, and the manner of filling vacancies therein, the allowances to be paid to the members and the procedure to be followed by the Governing Body; standing and *ad hoc* committees in the conduct of their business, exercise of their powers, discharge of their functions under section 10;

(c) the powers and duties of the Director and other officers and employees of the Institute under sub-sections (3) and (4) and other conditions of service under sub-section (5) of section 11;

(d) the power of the Institute under section 13, to specify—

(i) courses and curricula for undergraduate and postgraduate studies;

(ii) hold examination and grant degrees, diplomas and other academic distinctions and titles under clause (h);

(iii) the professorships, readerships, lectureships and other posts which may be instituted and persons who may be appointed to such posts under clause (i);

(iv) the management of the properties of the Institute under clause (k);

(v) the fees and other charges which may be demanded and received by the Institute under clause (l);

(e) the manner in which, and the conditions subject to which, pension and provident funds may be constituted for the benefit of officers, teachers and other employees of the Institute under sub-section (1) of section 20;

(f) any other matter for which under this Act provisions may be made by regulations.

(2) Notwithstanding anything contained in sub-section (1), the first regulations under this Act shall be made by the Central Government; and any regulations so made may be altered or rescinded by the Institute in exercise of its powers under sub-section (1).

Laying of  
rules and  
regulations  
before  
Parliament

31. Every rule and every regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or both Houses agree that the rule or regulation should not be made, the rule or regulation shall

thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

**32. (1)** If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, published in the Official Gazette, make such provision not inconsistent with the provisions of this Act, as may appear to be necessary for removing the difficulty : **Power to remove difficulties**

Provided that no such order shall be made under this section, after the expiry of a period of two years from the date of commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

Sd/-

**K. D. SINGH,**

Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

**H. D. VYAS,**

Secretary to Government.





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# The Gujarat Government Gazette

## EXTRAORDINARY

### PUBLISHED BY AUTHORITY

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Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

#### PART - VI

Acts of Parliament and Ordinances promulgated by the President.

Government of Gujarat

Legislative & Parliamentary Affairs Department

Sachivalaya, Gandhinagar, 11<sup>th</sup> September, 2008.

No. RPB/7-08/Ord.-07-08/E:- The following Ordinance promulgated by the President and published in the Gazette of India, Extraordinary, Part II, Section 1, dated the 3<sup>rd</sup> July, 2008 is republished for general information :-

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 3<sup>rd</sup> July, 2008./Ashadha 12, 1930 (Saka)

THE EMPLOYEES' STATE INSURANCE (AMENDMENT)

ORDINANCE, 2008

No. 7 OF 2008

Promulgated by the President in the Fifty-ninth Year of the Republic of India.

An Ordinance further to amend the Employees' State Insurance Act, 1948.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for her to take immediated action;

NOW THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:--

1. (1) This Ordinance may be called the Employees' State Insurance (Amendment) Ordinance, 2008. Short title and commencement.

(2) It shall come in to force once.

2. In the Employees' State Insurance Act, 1948, for Chapter VA, the following Chapter shall be substituted, namely :- Substitution of new Chapter for Chapter VA.

#### 'CHAPTER VA

##### SCHEME FOR OTHER BENEFICIARIES

73A. In this Chapter,--

(a) "other beneficiaries" means persons other than the person insured under this Act: Definitions.

(b) "Scheme" means any Scheme framed by the Central Government from time to time under section 73B for the medical facility for other beneficiaries;

(c) "underutilised hospital" means any hospital not fully utilised by the persons insured under this Act;

(d) "user charges" means the amount which is to be charged from the other beneficiaries for medical facilities as may be notified by the Corporation in consultation with the Central Government from time to time.

Power to frame Scheme.

**73B.** Notwithstanding any thing contained in this Act, the Central Government may, by notification in the Official Gazette, frame Scheme for other beneficiaries and the members of their families providing medical facility in any hospital established by the Corporation in any area which is underutilised hospital on payment of user charges.

Collection of user charges.

**73C.** The user charges collected from the other beneficiaries shall be deemed to be contribution and shall form part of the Employees' State Insurance Fund.

Scheme for other beneficiaries.

**73D.** The Scheme may provide for all or any of the following matters, namely:-

(i) the other beneficiaries who may be covered under this Scheme;

(ii) the time and manner in which the medical facilities may be availed by the other beneficiaries;

(iii) the form in which the other beneficiary shall furnish particulars about himself and his family whenever required as may be specified by the Corporation;

(iv) any other matter which is to be provided for in the scheme or which may be necessary or proper for the purpose of implementing the Scheme.

Power to Amend Scheme.

**73E.** The Central Government may, by notification in the Official Gazette, add to, amend, vary or rescind the Scheme.

Laying of Scheme framed under this Chapter.

**73F.** Every Scheme framed under this Chapter shall be laid, as soon as may be after it is made, before each House of Parliament while it is session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the Scheme or both Houses agree that the Scheme should not be made, the Scheme shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that Scheme.

Sd/-

**PRATIBHA DEVISINGH PATIL,**  
President

**K. D. SINGH,**  
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

**H. D. VYAS,**  
Secretary to Government.



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#### PART - VI

Acts of Parliament and Ordinances promulgated by the President.

#### Legislative & Parliamentary Affairs Department

Sachivalaya, Gandhinagar, 11<sup>th</sup> September, 2008.

No. RPB/19-2008/Act.-04--08/E:- The following Act of Parliament is republished for general information :-

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

Legislative Department

New Delhi, the 24<sup>th</sup> March, 2008. Chitra 4, 1930 (Sake)

The following Act of Parliament has received the assent of the President on the 24<sup>th</sup> March, 2008, is hereby published for general information:-

#### THE SUGAR DEVELOPMENT FUND (AMENDMENT) ACT, 2008

AN

ACT

(Act No. 4 of 2008)

[24<sup>th</sup> March, 2008]

*Futher to amend the Sugar Development Fund Act, 1982 and the Sugar Cess Act, 1982.*

Be it enacted by Parliament in the Fifty-ninth Year of the Republic of India as follows:--

1. (1) This Act may be called the Sugar Development Fund (Amendment) Act, 2008.

Short title  
and com -  
mencement.

(2) It shall be deemed to have come into force on the 5<sup>th</sup> day of February, 2008.

4 of 1982.

2. In the Sugar Development Fund Act, 1982, in section 4, in sub-section(1), after clause (bbb), the following clause shall be inserted, namely :-

Amendment of  
section 4.

“(bbbb) for defraying expenditure for the purpose of financial assistance to sugar factories towards interest on loans given in terms of any scheme approved by the Central Government from time to time.”

3. In the Sugar Cess Act, 1982, in section 3, in sub-section (1),--

(a) for the words “fifteen rupees”, the words “twenty-five rupees” shall be substituted;

Amendment  
of section 3.

(b) the proviso shall be omitted.

Repeal and  
saving

4. (1) The Sugar Development Fund (Amendment) Ordinance, 2008, is hereby repealed.

Ord. 4 of  
2008.

(2) Notwithstanding such repeal, anything done or any action taken under the Sugar Development Fund Act, 1982 and the Sugar Cess Act, 1982 as amended by the said Ordinance, shall be deemed to have been done or taken under the said Acts, as amended by this Act.

4 of 1982.  
3 of 1982.

Sd/-

K. D. SINGH,

Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

H. D. VYAS,

Secretary to Government.





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#### PART - VI

Acts of Parliament and Ordinances promulgated by the President.

#### Legislative & Parliamentary Affairs Department

Sachivalaya, Gandhinagar, 11<sup>th</sup> September, 2008.

No. RPB/24-2008/Act.-09--08/E:- The following Act of Parliament is republished for general information :-

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

Legislative Department

New Delhi, the 28<sup>th</sup> March, 2008./Chitra 8, 1930 (Sake)

The following Act of Parliament has received the assent of the President on the 28<sup>th</sup> March, 2008, is hereby published for general information:-

THE DELIMITATION (AMENDMENT) ACT, 2008

AN

ACT

(Act No. 9 of 2008)

[28<sup>th</sup> March, 2008]

*Further to amend the Delimitation Act, 2002.*

Be it enacted by Parliament in the Fifty-ninth Year of the Republic of India as follows:--

1. (1) This Act may be called the Delimitation (Amendment) Act, 2008.
- (2) It shall be deemed to have come into force on the 14<sup>th</sup> day of January, 2008.

Short title  
and com-  
mencement.

33 of 2002.

2. In section 10 of the Delimitation Act, 2002 (hereinafter referred to as the principal Act,)--

Amendment of  
section 10.

- (i) in sub-section (4), the following proviso shall be inserted, namely:--

“Provided that nothing in this sub-section shall apply to the delimitation orders published in relation to the State of Jharkhand.”;

(ii) in sub-section (6), for the words "within two years of the constitution of the Commission". The words "within a period not later than 31<sup>st</sup> day of July, 2008" shall be substituted.

Insertion of  
new sections  
10A and 10B.

3. After section 10 of the principal Act, the following sections shall be inserted. namely:--

Deferment of  
delimitation in  
Certain cases.

"10A. (1) Notwithstanding anything contained in sections 4, 8 and 9, if the President is satisfied that a situation has arisen whereby the unity and integrity of India is threatened or there is a serious threat to the peace and public order, he may, by order, defer the delimitation exercise in a State.

(2) Every order made under this section shall be laid before each House of Parliament.

Delimitation  
Commission's  
order with  
respect to the  
state of  
Jharkhand not  
to have any  
legal effect.

10B. Notwithstanding anything contained in sub-section (2) of section 10, the final orders relating to readjustment of number of seats and delimitation of constituencies in respect of the State of Jharkhand published under the said section *vide* Order O.N. 63(E), dated 30<sup>th</sup> April, 2007 and O.N. 110(E), dated 17<sup>th</sup> August, 2007 shall have no legal effect and the delimitation of the constituencies as it stood before the publication of the said Orders shall continue to be in force until the year 2026 in relation to every election to the House of the People or to the Legislative Assembly, as the case may be, held after the commencement of the Delimitation (Amendment) act, 2008."

Repeal and  
Savings.

4. (1) The Delimitation (Amendment) Ordinance, 2008 is hereby repealed.

Ord.  
1 of 2008.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the corresponding provisions of the principal Act, as amended by this Act.

Sd/-

K. D. SINGH,

Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

H. D. VYAS,

Secretary to Government.



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### PART - VI

Acts of Parliament and Ordinances promulgated by the President.

#### Legislative & Parliamentary Affairs Department

Sachivalaya, Gandhinagar, 11<sup>th</sup> September, 2008.

No. RPB/25-2008/Act.-10--08/E:- The following Act of Parliament is republished for general information :-

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE

Legislative Department

New Delhi, the 28<sup>th</sup> March, 2008./Chitra 8, 1930 (Sake)

The following Act of Parliament has received the assent of the President on the 28<sup>th</sup> March, 2008, is hereby published for general information:-

THE REPRESENTATION OF THE PEOPLE (AMENDMENT) ACT, 2008

AN

ACT

(Act No. 10 of 2008)

[28<sup>th</sup> March, 2008]

*further to amend the Representation of the People Act, 1950.*

BE it enacted by Parliament in the Fifty-ninth Year of the Republic of India as follows:—

1. (1) This Act may be called the Representation of the People (Amendment) Act, 2008.

Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint.

43 of 1950.

2. In section 4 of the Representation of the People Act, 1950 (hereinafter referred to as the principal Act), for sub-section (5), the following sub-section shall be substituted, namely:—

Amendment of section 4.

"(5) Save as provided in sub-section (4), the extent of all parliamentary constituencies except the parliamentary constituencies in the States of Arunachal Pradesh, Assam, Jharkhand, Manipur and Nagaland shall be as determined by the orders of the Delimitation Commission made under the provisions of the Delimitation Act, 2002 and the extent of the parliamentary constituencies in the States of Arunachal Pradesh, Assam, Jharkhand, Manipur and Nagaland shall be as provided for in the Delimitation of Parliamentary and Assembly Constituencies Order, 2008 having regard to the provisions of sections 10A and 10B of the Delimitation Act, 2002."

33 of 2002.

3. In section 7 of the principal Act,—

Amendment of section 7.

(i) in sub-section (1B), in clause (a), for the words "thirty-nine seats", the words "fifty-nine seats" shall be substituted;



(ii) for sub-section (3), the following sub-section shall be substituted, namely:—

"(3) The extent of each assembly constituency in all the States and Union Territories except the assembly constituencies in the States of Arunachal Pradesh, Assam, Jharkhand, Manipur and Nagaland shall be as determined by the orders of the Delimitation Commission made under the provisions of the Delimitation Act, 2002 and the extent of each assembly constituency in the States of Arunachal Pradesh, Assam, Jharkhand, Manipur and Nagaland shall be as provided for in the Delimitation of Parliamentary and Assembly Constituencies Order, 2008 having regard to the provisions of sections 10A and 10B of the Delimitation Act, 2002."

33 of 2002.

Amendment  
of section 8.

4. In section 8 of the principal Act,—

(i) for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) Having regard to all the orders referred to in sub-section (5) of section 4 and sub-section (3) of section 7 relating to the delimitation of parliamentary and assembly constituencies in all States and Union Territories, except the State of Arunachal Pradesh, Assam, Jharkhand, Manipur and Nagaland, made by the Delimitation Commission and published in the Official Gazette, the Election Commission shall—

(a) after making such amendments as appear to it to be necessary for bringing up-to-date the description of the extent of the parliamentary and assembly constituencies as given in such orders, without, however, altering the extent of any such constituency;

(b) after taking into account the provisions of the Delimitation of Parliamentary and Assembly Constituencies Order, 1976, as made applicable pursuant to the orders made by the President under section 10A of the Delimitation Act, 2002 relating to delimitation of parliamentary and assembly constituencies in the States of Arunachal Pradesh, Assam, Manipur and Nagaland, and the provisions of section 10B of the said Act relating to delimitation of parliamentary and assembly constituencies in the State of Jharkhand,

33 of 2002.

consolidate all such orders into one single order to be known as the Delimitation of Parliamentary and Assembly Constituencies Order, 2008 and shall send authentic copies of that Order to the Central Government and to the Government of each State having a Legislative Assembly; and thereupon that Order shall supersede all the orders referred to in sub-section (5) of section 4 and sub-section (3) of section 7 and shall have the force of law and shall not be called in question in any court."

(ii) in sub-section (3), for the words, brackets and figures "as provided in sub-section (5) of section 10 of the Delimitation Act, 1972", the words, brackets and figures "as provided in sub-section (5) of section 10 of the Delimitation Act, 2002" shall be substituted.

76 of 1972.

33 of 2002.

Insertion of new  
section 8A.

Delimitation of  
Parliamentary  
and Assembly  
Constituencies  
in the State of  
Arunachal  
Pradesh,  
Assam,  
Manipur or  
Nagaland.

5. After section 8 of the principal Act, the following section shall be inserted, namely:—

"8A. (1) If the President is satisfied that the situation and the conditions prevailing in the State of Arunachal Pradesh, Assam, Manipur or Nagaland are conducive for the conduct of delimitation exercise, he may, by order, rescind the deferment order issued under the provisions of section 10A of the Delimitation Act, 2002 in relation to that State, and provide for the conduct of delimitation exercise in the State by the Election Commission.

33 of 2002.

(2) As soon as may be after the deferment order in respect of a State is rescinded under sub-section (1), the Election Commission may, by order, determine—



(a) the parliamentary constituencies into which such State to which more than one seat is allotted in the First Schedule shall be divided;

(b) the extent of each constituency; and

(c) the number of seats, if any, reserved for the Scheduled Castes or the Scheduled Tribes.

(3) As soon as may be after the deferment order in respect of a State is rescinded under sub-section (1), the Election Commission may, by order, determine—

(a) the assembly constituencies into which such State shall be divided for the purpose of elections to the Legislative Assembly of that State;

(b) the extent of each constituency; and

(c) the number of seats, if any, reserved for the Scheduled Castes or the Scheduled Tribes.

(4) Subject to the provisions of sub-section (1), the Election Commission shall, having regard to the provisions of the Constitution and the principles specified in clauses (c) and (d) of sub-section (1) of section 9 of the Delimitation Act, 2002 determine the parliamentary and assembly constituencies in the States of Arunachal Pradesh, Assam, Manipur and Nagaland in which seats shall be reserved, if any, for the Scheduled Castes and the Scheduled Tribes.

33 of 2002.

(5) The Election Commission shall,—

(a) publish its proposals under sub-sections (2), (3) and (4) with respect to any State in the Official Gazette and also in such other manner as it thinks fit;

(b) specify a date on or after which the proposals will be further considered by it;

(c) consider all objections and suggestions which may have been received by it before the date so specified;

(d) hold, for the purpose of such consideration, if it thinks fit so to do, one or more public sittings at such place or places in such State as it thinks fit;

(e) after considering all objections and suggestions which may have been received by it before the date so specified, determine, by order, the delimitation of parliamentary and assembly constituencies in the State and also the constituency or constituencies in which seats shall be reserved, if any, for the Scheduled Castes and the Scheduled Tribes and cause such order to be published in the Official Gazette; and, upon such publication, the order shall have the force of law and shall not be called in question in any court and the Delimitation of Parliamentary and Assembly Constituencies Order, 2008 shall be deemed to have been amended accordingly.

(6) Every order made under sub-sections (1) and (2) and clause (e) of sub-section (5) shall be laid before each House of Parliament.

(7) Every order made under sub-sections (1) and (3) and clause (e) of sub-section (5) shall, as soon as may be after it is published under that sub-section, be laid before the Legislative Assembly of the State concerned.”.

6. In section 9 of the principal Act, in sub-section (1), for clauses (a) and (aa), the following clauses shall be substituted, namely:—

Amendment of section 9.

“(a) correct any printing mistake in the Delimitation of Parliamentary and Assembly Constituencies Order, 2008 or any error arising therein from inadvertent slip or omission;

(aa) make such amendments in the Delimitation of Parliamentary and Assembly Constituencies Order, 2008 as appear to it to be necessary or expedient for consolidating with that Order any notification or order relating to delimitation of Parliamentary or assembly constituencies (including reservation of seats for the Scheduled Castes or the Scheduled Tribes in such constituencies) issued under section 8A of this Act or any other Central Act;"

Omission of sections 9A and 9B.

7. Section 9A and section 9B of the principal Act shall be omitted.

Substitution of new Schedules for the First Schedule and the Second Schedule.

8. For the First Schedule and the Second Schedule of the principal Act, the following Schedules shall be substituted, namely:—

### "THE FIRST SCHEDULE

(See section 3)

#### *Allocation of seats in the House of the People*

Name of the State/Union Territory	Number of seats in the House as constituted in 2004 on the basis of the Delimitation of Parliamentary and Assembly Constituencies Order, 1976 as amended from time to time			Number of seats in the House as subsequently constituted as per the Delimitation of Parliamentary and Assembly Constituencies Order, 2008		
	Total	Reserved for the Scheduled Castes	Reserved for the Scheduled Tribes	Total	Reserved for the Scheduled Castes	Reserved for the Scheduled Tribes
1	2	3	4	5	6	7
<b>I. STATES:</b>						
1. Andhra Pradesh	42	6	2	42	7	3
2. Arunachal Pradesh	2	..	..	2	..	..
3. Assam	14	1	2	14	1	2
4. Bihar	40	7	..	40	6	..
5. Chhattisgarh	11	2	4	11	1	4
6. Goa	2	..	..	2	..	..
7. Gujarat	26	2	4	26	2	4
8. Haryana	10	2	..	10	2	..
9. Himachal Pradesh	4	1	..	4	1	..
10. Jammu and Kashmir	6	..	..	6	..	..
11. Jharkhand	14	1	5	14	1	5
12. Karnataka	28	4	..	28	5	2
13. Kerala	20	2	..	20	2	..
14. Madhya Pradesh	29	4	5	29	4	6
15. Maharashtra	48	3	4	48	5	4
16. Manipur	2	..	1	2	..	1
17. Meghalaya	2	..	..	2	..	2
18. Mizoram	1	..	1	1	..	1
19. Nagaland	1	..	..	1	..	..
20. Orissa	21	3	5	21	3	5

	1	2	3	4	5	6	7
21. Punjab		13	3	..	13	4	..
22. Rajasthan		25	4	3	25	4	3
23. Sikkim		1	..	..	1	..	..
24. Tamil Nadu		39	7	..	39	7	..
25. Tripura		2	..	1	2	..	1
26. Uttarakhand		5	..	..	5	1	..
27. Uttar Pradesh		80	18	..	80	17	..
28. West Bengal		42	8	2	42	10	2

## II. UNION TERRITORIES:

1. Andaman and Nicobar Islands	1	..	..	1	..	..
2. Chandigarh	1	..	..	1	..	..
3. Dadra and Nagar Haveli	1	..	1	1	..	1
4. Delhi	7	1	..	7	1	..
5. Daman and Diu	1	..	..	1	..	..
6. Lakshadweep	1	..	1	1	..	1
7. Puducherry	1	..	..	1	..	..
<b>Total:</b>	<b>543</b>	<b>79</b>	<b>41</b>	<b>543</b>	<b>84</b>	<b>47</b>

## THE SECOND SCHEDULE

(See sections 7 and 7A)

*Total number of seats in the Legislative Assemblies*

Name of the State/ Union Territory	Number of seats in the House as constituted on the basis of the Delimitation of Parliamentary and Assembly Constituencies Order, 1976 as amended from time to time			Number of seats in the House as subsequently constituted as per the Delimitation of Parliamentary and Assembly Constituencies Order, 2008		
	Total	Reserved for the Scheduled Castes	Reserved for the Scheduled Tribes	Total	Reserved for the Scheduled Castes	Reserved for the Scheduled Tribes
1	2	3	4	5	6	7
<b>I. STATES:</b>						
1. Andhra Pradesh	294	39	15	294	48	19
2. Arunachal Pradesh	60	..	59	60	..	59
3. Assam	126	8	16	126	8	16
4. Bihar	243	39	..	243	38	2
5. Chhattisgarh	90	10	34	90	10	29
6. Goa	40	1	..	40	1	..
7. Gujarat	182	13	26	182	13	27
8. Haryana	90	17	..	90	17	..
9. Himachal Pradesh	68	16	3	68	17	3
10. Jammu and Kashmir*	76	6	..	..	..	..
11. Jharkhand	81	9	28	81	9	28
12. Karnataka	224	33	2	224	36	15

1	2	3	4	5	6	7
13. Kerala	140	13	1	140	14	2
14. Madhya Pradesh	230	34	41	230	35	47
15. Maharashtra	288	18	22	288	29	25
16. Manipur	60	1	19	60	1	19
17. Meghalaya	60	..	55	60	..	55
18. Mizoram	40	..	39	40	..	38
19. Nagaland	60	..	59	60	..	59
20. Orissa	147	22	34	147	24	33
21. Punjab	117	29	..	117	34	..
22. Rajasthan	200	33	24	200	34	25
23. Sikkim	32	2	12**	32	2	12**
24. Tamil Nadu	234	42	3	234	44	2
25. Tripura	60	7	20	60	10	20
26. Uttarakhand	70	12	3	70	13	2
27. Uttar Pradesh	403	89	..	403	85	..
28. West Bengal	294	59	17	294	68	16

## II. UNION TERRITORIES:

1. Delhi	70	13	..	70	12	..
2. Puducherry	30	5	..	30	5	..

\*Under the Constitution of Jammu and Kashmir, the number of seats in the Legislative Assembly of that State excluding the 24 seats earmarked for Pakistan occupied territory is 87 out of which 7 seats have been reserved for the Scheduled Castes in pursuance of the Jammu and Kashmir Representation of the People Act, 1957.

\*\*Reserved 1 seat for Sanghas and 12 seats for the Sikkimese of Bhutia Lepcha origin.

Sd/-

K. D. SINGH,

Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

H. D. VYAS,

Secretary to Government.